

## HUMAN RIGHTS DEPARTMENT[421]

### Adopted and Filed

#### Rule making related to reorganization of department rules

The Human Rights Department hereby amends Chapter 2, “Public Records and Fair Information Practices,” Chapter 3, “Petitions for Rule Making,” Chapter 4, “Agency Procedure for Rule Making,” Chapter 5, “Declaratory Orders,” Chapter 6, “Contested Cases,” and Chapter 7, “Waiver Rules,” and adopts new Chapter 1, “Organization and Operations,” Chapter 20, “Functions of Division,” Chapter 21, “Community Services Block Grant (CSBG),” Chapter 22, “Low-income Home Energy Assistance Program (LIHEAP),” Chapter 23, “Weatherization,” Chapter 24, “Family Development and Self-Sufficiency (FaDSS) Program,” Chapter 25, “Individual Development Account (IDA),” Chapter 30, “Functions of Division,” Chapter 31, “Juvenile Justice Youth Development Program,” Chapter 40, “Functions of Division,” and Chapter 41, “Hall of Fame,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code chapters 17A and 216A.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 17A, 216A, 232 and 541A and P.L.93-415, P.L.97-35, and P.L.98-558.

#### *Purpose and Summary*

This rule making is intended to reflect the current organizational structure and statutory requirements of Iowa Code chapter 216A. The Department has three major divisions: (1) the Division of Community Action Agencies; (2) the Division of Criminal and Juvenile Justice Planning; and (3) the Division of Community Advocacy and Services, which includes seven offices devoted to advocacy for various populations. The Department’s only gubernatorial appointment is the Director. The Human Rights Board guides the work of the Department. Other authority, duties, and responsibilities are outlined in Iowa Code chapter 216A.

This rule making reorganizes the format and structure of the rules, updates the organizational structure and operations of the agency to align with state and federal laws, rescinds rules that are outdated or no longer have statutory or legal authority, and updates legal references.

This rule making eliminates rules that are outdated, redundant, or inconsistent or incompatible with statute or with this agency’s own rules or those of other agencies and adopts consolidated and comprehensive rules under the Department of Human Rights. The Department is rescinding, in separate Adopted and Filed rule makings published concurrently with this Adopted and Filed (**ARCs 6098C, 6099C, 6100C, 6103C, 6104C, 6105C, and 6106C**, IAB 12/29/21) all rules under Iowa Administrative Code agency identification numbers 427, 428, 429, 431, 433, 434, and 435 in their entirety.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 20, 2021, as **ARC 6004C**. A public hearing was held on November 9, 2021, at 3 p.m. via video/conference call. No one attended the public hearing. No public comments were received.

Upon further review, the following changes from the Notice have been made:

- Replaced the word “board” with “department” in rule 421—7.17(17A).
- Changed Arabic numbers to Roman numerals in the references to Iowa Code subchapters and changed the subchapter number to be consistent with the codification of the 2022 Iowa Code pursuant to 2021 Iowa Acts, House File 699, section 150.

### *Adoption of Rule Making*

This rule making was adopted by the Human Rights Board on December 1, 2021.

### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 421—Chapter 7.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

### *Effective Date*

This rule making will become effective on February 2, 2022.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** 421—Chapter 1:

#### TITLE I DEPARTMENT OPERATIONS

#### CHAPTER 1 ORGANIZATION AND OPERATIONS

**421—1.1(17A,216A) Definitions.** As used in these rules, unless the context otherwise requires:

“*Board*” means the human rights board.

“*Department*” means the department of human rights.

“*Director*” means the director of the department of human rights.

“*Underrepresented*” means the historical marginalization of populations or groups in the United States and Iowa, including but not limited to African Americans, Asian and Pacific Islanders, persons who are deaf or hard of hearing, persons with disabilities, Latinos, Native Americans, women, persons who have low socioeconomic status, at-risk youth, and adults or juveniles with a criminal history.

**421—1.2(17A,216A) Authority.** The department is established with the authority, powers, and duties set forth in Iowa Code chapter 216A.

**421—1.3(17A,216A) History.** The department was originally conceived in 1987 as an umbrella agency for several agencies that had previously operated independently and reported directly to the governor.

In 1993, the department's statutory provision in Iowa Code chapter 601K was transferred to chapter 216A.

As part of the government reorganization and efficiency bill in 2010 (2010 Iowa Acts, Senate File 2088), the department has streamlined its administrative functions and budget processes to operate as one

department in a strategically cohesive manner. The director is appointed by the governor and has general supervision over the administration and operation of the department and its divisions. Administrators of the divisions are appointed by and report to the director. Ten divisions were consolidated into three divisions within the department: the division of community action agencies; the division of criminal and juvenile justice planning; and the division of community advocacy and services. Seven divisions devoted to advocacy for various populations were redesignated as offices, which are included within the division of community advocacy and services. Except for the commission of Native American affairs, all commissions within the division of community advocacy and services are limited to seven voting members. The human rights board is created within the department.

**421—1.4(17A,216A) Mission.** The mission of the department is to ensure basic rights, freedoms, and opportunities for all by empowering underrepresented Iowans and eliminating economic, social, and cultural barriers. The department helps individuals attain economic independence by ensuring access to government services and advancing educational achievement and entrepreneurial success consistent with their aspirations.

**421—1.5(17A,216A) Organization.**

**1.5(1) Contact information.** Requests for assistance, information, inquiries, submissions, petitions, and other communications may be directed to the department as follows: The office is located at 321 E. 12th Street, Des Moines, Iowa 50319. The main telephone number is (515)242-5655. The fax number is (515)242-6119. Regular office hours are Monday through Friday, 8 a.m. to 4:30 p.m., excluding legal holidays. The department's website is [humanrights.iowa.gov](http://humanrights.iowa.gov).

**1.5(2) Director.** The duties and responsibilities of the director are described in Iowa Code section 216A.2. The director is appointed by the governor, subject to confirmation by the senate. The director serves at the pleasure of the governor. The director is the chief administrative officer of the department and, in that capacity, administers the programs and services of the department in compliance with applicable federal and state laws and regulations. The duties of the director include preparing a budget, managing the internal operations of the department, appointing the deputy director and administrators of the divisions, and employing personnel. The director serves as an ex officio member of all of the commissions or councils within the department, as well as an ex officio, nonvoting member of the human rights board.

**1.5(3) Central administration.** The central administration office is responsible for the overall planning, policy, management, communications, finances, and operations of the department.

**1.5(4) Divisions.** The department is composed of the following divisions and offices:

*a. Division of community action agencies.* A description of the division is contained in 421—Chapter 20.

*b. Division of criminal and juvenile justice planning.* A description of the division is contained in 421—Chapter 30.

*c. Division of community advocacy and services.* The division of community advocacy and services contains the following offices: the office of Latino affairs, the office on the status of women, the office of persons with disabilities, the office of deaf services, the office on the status of African Americans, the office of Asian and Pacific Islander affairs, and the office of Native American affairs. A description of the division is contained in 421—Chapter 40.

**421—1.6(216A) Human rights board.** The authority and duties of the human rights board are specified in Iowa Code section 216A.3. The department shall provide staff support to the board.

**1.6(1)** The board shall consist of 16 members, including 11 voting members and 5 nonvoting members and determined as follows:

*a.* The voting members shall consist of nine voting members selected by each of the permanent commissions within the department, and two voting members appointed by the governor. For purposes of this subrule, “permanent commissions” means the commission of Latino affairs, commission on the status of women, commission of persons with disabilities, commission on community action agencies,

commission of deaf services, justice advisory board, commission on the status of African Americans, commission of Asian and Pacific Islander affairs, and commission of Native American affairs. The term for voting members is four years. The board shall select a chairperson from the voting members of the board.

*b.* The nonvoting members shall consist of the department director; two state representatives, one appointed by the speaker of the house of representatives and one by the minority leader of the house of representatives; and two state senators, one appointed by the majority leader of the senate and one by the minority leader of the senate. The regular term of an appointment made by a member of the general assembly shall be two years pursuant to Iowa Code section 69.16B.

**1.6(2)** A majority of the voting members of the board shall constitute a quorum, and the affirmative vote of two-thirds of the voting members present is necessary for any substantive action taken by the board.

**1.6(3)** The board shall meet not less than four times a year. Meetings shall comply with the open meetings law, Iowa Code chapter 21. Agendas and approved minutes will be posted on the department's website.

**1.6(4)** The board shall have the following duties:

*a.* Develop and monitor implementation of a comprehensive strategic plan to remove barriers for underrepresented populations and, in doing so, to increase Iowa's productivity and inclusivity, including performance measures and benchmarks.

*b.* Approve, disapprove, amend, or modify the budget recommended by the director for the operation of the department, subject to the budget requirements pursuant to Iowa Code chapter 8.

*c.* Adopt administrative rules pursuant to Iowa Code chapter 17A, upon the recommendation of the director, for the operation of the department.

*d.* By November 1 of each year, approve the department report to the general assembly and the governor that covers activities during the preceding fiscal year.

**421—1.7(216A) Potential conflicts of interest.** Any member of the department's boards, commissions, or councils established in Iowa Code chapter 216A who may have a conflict of interest shall not vote on any substantive action on the matter in conflict. When a conflict of interest is determined to exist, the member shall abstain from voting and shall be recorded as abstaining when votes are taken. A quorum may include any member who has a conflict of interest, and a statement of a conflict of interest shall be conclusive for this purpose. Any vote by a member with a conflict shall be excluded.

These rules are intended to implement Iowa Code chapters 17A and 216A.

ITEM 2. Amend 421—Chapter 2, introductory paragraph, as follows:

## CHAPTER 2

### PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The department of human rights hereby adopts, with the following exceptions and amendments, the uniform rules on agency procedure relating to public records and fair information practices printed in the first volume of the Iowa Administrative Code published on the Iowa general assembly's website at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf).

ITEM 3. Amend rule 421—2.1(22) as follows:

**421—2.1(22) Definitions.** As used in this chapter:

*"Agency."* In lieu of the words "(official or body issuing these rules)", insert the ~~"Department of Human Rights and the Divisions for Community Action Agencies, Criminal and Juvenile Justice Planning, Deaf Services, Persons with Disabilities, Latino Affairs, Status of Women, and Status of African Americans."~~ "department of human rights".

*“Custodian.”* In lieu of the words “means the agency;”, insert “means the director of the department of human rights ~~or the administrator of the division within which the records are maintained~~”.

*“Routine use”* means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

ITEM 4. Amend subrule 2.3(1) as follows:

**2.3(1) Location of record.** In lieu of the words “(insert agency head)”, insert “director of the department of human rights, ~~or the administrator of the appropriate division within the department~~”. In lieu of the words “(insert agency name and address)”, insert the “Department of Human Rights ~~or the appropriate division within the department~~, Lucas State Office Building, Des Moines, Iowa 50319.”.

ITEM 5. Amend rule 421—2.14(22) as follows:

**421—2.14(22) Personally identifiable information.** This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule ~~2.1(22)~~ 421—2.1(22). For each record system, this rule describes the legal authority for the collection or maintenance of that information; the means of storage of that information and indicates when applicable; if a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system; and when the record system is confidential, indicates the statutory authority. The record systems maintained within the agency are:

**2.14(1) Personnel records.**

a. The agency maintains files containing information about employees, families and dependents, and applicants for ~~commission members or~~ staff positions within the agency. These files include, but are not limited to, payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports and other information concerning employees and related issues. ~~The files are maintained by department and by division.~~ Some of this information is confidential under Iowa Code section 22.7(11).

b. The legal authority for maintaining the records for state-funded programs ~~in~~ is Iowa Code sections ~~19A.11 and 91A.6, section 8A.106 and chapter 601K~~ 216A. The legal authority for maintaining the records for federally funded programs is the Omnibus Budget Reconciliation Act, P.L. 97-35, Subtitle B, Section 675(c), P.L. 93-569, Title; Freedom of Information Act, 5, U.S.C. 552a; Juvenile Justice and Delinquency Prevention Act, P.L. 93-415; Victims Compensation and Assistance Act, P.L. 98-473, Title H, Chapter 14, P.L. 98-457; and other federal statutes from which federal funds are granted.

c. and d. No change.

**2.14(2) Advocacy records.**

a. The agency maintains files containing information pertaining to clients receiving advocacy or referral services to help alleviate or solve a problem. Such information may include, but is not limited to, names and addresses of clients, documents or other material relating to advocacy issues, social or economic conditions or circumstances of particular clients, ~~department or division~~ evaluations of information about clients, medical or psychiatric data provided to the department ~~or division~~ concerning a client, and legal data related to the client. These files ~~are maintained by division and~~ may be indexed by advocacy files, client files, interpreting files or any direct service involving individual client assistance set forth in this rule or by statute.

b. The authority for maintaining these records is Iowa Code chapter ~~601K and~~ 216A; the Omnibus Budget Reconciliation Act, P.L. 97-35, ~~P.L. 93-569~~; Juvenile Justice and Delinquency Prevention Act, P.L. 93-415; Victims Compensation and Assistance Act, P.L. 98-473, ~~P.L. 98-457~~; and other federal statutes from which federal funds are granted.

c. ~~Most of the information is maintained on paper; however, some divisions have some records in computer form which are maintained by the respective division.~~ Information is maintained on paper, electronically, and in other available mediums.

d. Information contained within this record system is confidential under the authority of Iowa Code ~~subsection sections 22.7(18) and 1988 Iowa Acts, House File 2255~~ 216A.6.

**2.14(3) Fiscal records.**

a. The agency maintains files containing fiscal information for state-funded programs and federally funded grants or contracts that may contain personally identifiable information. ~~These records are maintained by department and by division.~~

b. The authority for maintaining these records is Iowa Code chapter ~~601K, P.L. 97-35, P.L. 93-569, P.L. 93-415, P.L. 98-473, P.L. 98-457~~ 216A and ~~other~~ federal statutes from which federal funds are granted.

c. and d. No change.

**2.14(4) General correspondence, mailing lists, and program or grant data.**

a. The agency maintains correspondence files, grant notices and applications, conference or committee listings and reports, board and commission meeting minutes, mailing lists, program and grant information including surveys or specialized reports and activities that contain some personally identifiable information that may include names, addresses or other descriptive data. ~~These records are generally collected and maintained by division.~~

b. The authority for maintaining these records is Iowa Code chapter ~~601K, 216A; the Omnibus Budget Reconciliation Act, as amended, P.L. 97-35, P.L. 93-569; Juvenile Justice and Prevention Act, P.L. 93-415; Victims Compensation and Assistance Act, P.L. 98-473, P.L. 98-457;~~ 216A; the Omnibus Budget Reconciliation Act, as amended, P.L. 97-35, P.L. 93-569; Juvenile Justice and Prevention Act, P.L. 93-415; Victims Compensation and Assistance Act, P.L. 98-473, P.L. 98-457; and other federal statutes from which federal funds are granted.

c. The information is maintained on paper and in computer systems ~~within each respective division.~~

d. No change.

**2.14(5) No change.**

ITEM 6. Amend subrule 2.15(3) as follows:

**2.15(3) Office publications.** ~~The divisions distribute~~ department distributes to the public a variety of materials including brochures and typed information regarding issues pertinent to ~~their~~ its programs or constituent groups. Also included are statistical reports, program reports and news releases.

ITEM 7. Rescind rule 421—2.16(22) and adopt the following new rule in lieu thereof:

**421—2.16(22) Applicability.** This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.

2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.

3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the rules of another agency.

4. Apply to grantees, including local governments or subdivisions thereof, that administer state-funded programs, unless otherwise provided by law or agreement.

5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

6. Require the agency to create, compare, or procure a record solely for the purpose of making it available.

ITEM 8. Amend **421—Chapter 2**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code chapters 17A, 22 and 216A.~~

ITEM 9. Amend rule 421—3.1(17A), introductory paragraph, as follows:

**421—3.1(17A) Adoption by reference.** The department of human rights hereby adopts the petitions for rule making segment of the uniform rules on agency procedure ~~printed in the first volume of the Iowa Administrative Code~~ published on the Iowa general assembly's website at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf), with the following amendments:

ITEM 10. Amend **421—Chapter 3**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A ~~as amended by 1998 Iowa Acts, chapter 1202.~~

ITEM 11. Amend rule 421—4.1(17A) as follows:

**421—4.1(17A) Adoption by reference.** The department of human rights hereby adopts the agency procedure for rule making segment of the uniform rules on agency procedure ~~printed in the first volume of the Iowa Administrative Code~~ published on the Iowa general assembly's website at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf), with the following amendments:

1. In lieu of the words “(commission, board, council, director)”, insert “director”.
2. In lieu of the words “(specify time period)”, insert “one year”.
3. In lieu of the words “(identify office and address)”, insert “Director, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319”.
4. In lieu of the words “(designate office and telephone number)”, insert “the director at (515)281-7300 voice/tty (515)242-5655”.
5. In lieu of the words “(designate office)”, insert “Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319”.
6. In lieu of the words “(specify the office and address)”, insert “Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319”.
7. In lieu of the words “(agency head)”, insert “director”.

ITEM 12. Amend **421—Chapter 4**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A ~~as amended by 1998 Iowa Acts, chapter 1202.~~

ITEM 13. Amend rule 421—5.1(17A), introductory paragraph, as follows:

**421—5.1(17A) Adoption by reference.** The department of human rights hereby adopts the declaratory orders segment of the uniform rules on agency procedure ~~printed in the first volume of the Iowa Administrative Code~~ published on the Iowa general assembly's website at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf), with the following amendments:

ITEM 14. Amend **421—Chapter 5**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A ~~as amended by 1998 Iowa Acts, chapter 1202.~~

ITEM 15. Amend rule 421—6.1(17A) as follows:

**421—6.1(17A) Adoption by reference.** The department of human rights hereby adopts the contested cases segment of the uniform rules on agency procedure ~~printed in the first volume of the Iowa Administrative Code~~ published on the Iowa general assembly's website at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf), with the following amendments:

1. In lieu of the words “(agency name)”, insert “department of human rights”.
2. In lieu of the words “(designate official)”, insert “director”.
3. In subrule 7.3(2) 6.3(2), delete the words “or by (specify rule number)”.
4. In lieu of the words “(agency specifies class of contested case)”, insert “division contested cases”.

5. In lieu of the words “(specify office and address)”, insert “Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319”.

6. In lieu of the words “(designate office)”, insert “department of human rights”.

7. In lieu of the words “(agency to designate person to whom violations should be reported)”, insert “director”.

8. In lieu of the words “(board, commission, director)”, insert “director”.

9. In lieu of the words “(the agency)”, insert “department of human rights”.

ITEM 16. Amend **421—Chapter 6**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

ITEM 17. Amend rule 421—7.1(17A) as follows:

**421—7.1(17A) Definition.** The term “waiver” as used in this chapter means a prescribed waiver or variance from a specific rule or set of rules of this department applicable only to an identified person on the basis of the particular circumstances of that person.

ITEM 18. Amend rule 421—7.3(17A) as follows:

**421—7.3(17A) Applicability.** This chapter applies only to waivers of those ~~departmental~~ administrative rules that are within the exclusive rule-making authority of the department. This chapter shall not apply to rules that merely define the meaning of a statute, or other provisions of law or precedent, if the department does not possess statutory authority to bind a court, to any extent, with its definition.

ITEM 19. Amend rule 421—7.5(17A), introductory paragraph, as follows:

**421—7.5(17A) Criteria for a waiver.** The department may issue an order, in response to a completed petition ~~or on its own motion~~, granting a waiver from a rule adopted by the department, in whole or in part, as applied to the circumstances of a specified person, if the department finds that the waiver is consistent with rules ~~7.3(17A) and 7.4(17A) of this chapter~~ 421—7.3(17A) and 421—7.4(17A), that the waiver would not prejudice the substantial legal rights of any person, and either that:

ITEM 20. Rescind rule 421—7.17(17A) and adopt the following new rule in lieu thereof:

**421—7.17(17A) Submission of waiver information.** Within 60 days of granting or denying a waiver, the department shall make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the department’s actions on waiver requests. If practicable, the report shall detail the extent to which granting a waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself.

ITEM 21. Reserve **421—Chapter 8** to **Chapter 19**.

ITEM 22. Adopt the following new 421—Chapter 20:

TITLE II  
DIVISION OF COMMUNITY ACTION AGENCIES  
CHAPTER 20  
FUNCTIONS OF DIVISION

**421—20.1(216A) Definitions.** As used in these rules, unless the context otherwise requires:

“*Administrator*” means the administrator of the division of community action agencies within the department of human rights.

“*Division*” means the division of community action agencies within the department of human rights.



**421—20.2(216A) Functions of division.** The functions of the division are described in Iowa Code chapter 216A, subchapter VI. The division is under the direction of an administrator who reports to the director.

**421—20.3(216A) Purpose.** The purpose of the division is to strengthen, supplement, and coordinate efforts to develop the full potential of each citizen by recognizing certain community action agencies and supporting certain community-based programs delivered by community action agencies.

These rules are intended to implement Iowa Code chapters 17A and 216A.

ITEM 23. Adopt the following new 421—Chapter 21:

CHAPTER 21  
COMMUNITY SERVICES BLOCK GRANT (CSBG)

**421—21.1(216A,PL97-35) Definitions.** For the purpose of these rules, unless context otherwise requires:

*“Community action agency”* or *“eligible entity”* means any organization which was officially recognized as a community action agency under the provisions of Section 673(1) of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, Title VI, Subtitle B, as amended, and Iowa Code sections 216A.91 and 216A.93.

*“CSBG”* means community services block grant program.

*“CSBG Act”* means the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, Title VI, Subtitle B, as amended.

*“DCAA”* means the division of community action agencies of the department of human rights.

*“Program year”* means the year beginning October 1 and ending the succeeding September 30. The program year is numbered for that year in which it ends.

*“Reduction”* means funding reduced below the proportional share of funding the eligible entity received in the previous program year.

*“Termination”* means permanent withdrawal of the eligible entity’s authority to obligate funds before that authority would otherwise expire. If an eligible entity’s authority to obligate funds is terminated, no funds may be obligated by the eligible entity after the effective date of the termination.

**421—21.2(216A,PL97-35) Purpose.** The CSBG as established by the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, Title VI, Subtitle B, as amended, provides assistance to states and local communities, working through a network of community action agencies and other neighborhood-based organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become self-sufficient.

Pursuant to Iowa Code section 216A.92, DCAA shall administer the community services block grant.

**421—21.3(216A,PL97-35) Uses of funds.** The CSBG makes available to the state of Iowa funds to be used:

**21.3(1)** To support activities that are designed to assist low-income families and individuals:

- a. To remove obstacles and solve problems that block the achievement of self-sufficiency;
- b. To secure and retain meaningful employment;
- c. To attain an adequate education;
- d. To make better use of available income;
- e. To obtain and maintain adequate housing and a suitable living environment;
- f. To obtain emergency assistance through loans, grants, or other means to meet immediate and urgent family and individual needs; and
- g. To achieve greater participation in the affairs of the communities involved.

**21.3(2)** To address the needs of youth in low-income communities through youth development programs.

**21.3(3)** To make more effective use of, and to coordinate with, other programs related to the purposes of this program.

**421—21.4(216A,PL97-35) Apportionment distribution.**

**21.4(1) *Iowa apportionment.*** There is appropriated to DCAA from the fund created by Iowa Code section 8.41(1) funds to implement the CSBG as described in the CSBG Act.

**21.4(2) *Distribution of funds.*** CSBG funds received according to subrule 21.4(1) shall be allocated to the DCAA and eligible entities as provided by federal law and in accordance with the Iowa Acts.

**21.4(3) *Poverty-level population.*** The state shall use U.S. census statistics to determine the poverty-level population in each community action area.

**21.4(4) *Local share.*** There shall be no local share required under the CSBG.

**421—21.5(216A,PL97-35) Eligibility requirements.** The eligibility requirements for an organization to receive and administer CSBG funds are as follows:

**21.5(1) *Organization.*** The organization must meet the definition of a “community action agency” as defined in these rules.

**21.5(2) *Board composition.*** A recognized community action agency shall be governed by a board of directors composed of at least nine members. The board membership shall follow the requirements in Iowa Code section 216A.94.

**421—21.6(216A,PL97-35) Community action plan.** All eligible entities shall submit a community action plan for the purpose of applying for CSBG funds. Community action plans must be outcome-based and antipoverty-focused and tie directly to the eligible entity’s community assessment.

**21.6(1) *Timing.*** Eligible entities shall be informed in writing by the DCAA of the due date for the community action plan and the amount of their allocation in accordance with subrule 21.4(2).

**21.6(2) *Contents.*** Instructions for preparing the community action plan shall be provided by the DCAA to all eligible entities. In addition to other information specified in the instructions, the community action plan must:

- a.* Document the continuous use of the full Results Oriented Management and Accountability cycle of assessment, planning, implementation, achievement of results, and evaluation for planning and administering the CSBG;
- b.* Include a budget that equals the amount of the eligible entity’s allocation;
- c.* Include a description of the service delivery system targeted to low-income individuals and families in the service area;
- d.* Include a description of how linkages will be developed to fill identified gaps in the services, through the provision of information, referrals, case management, and follow-up consultations;
- e.* Include a description of how CSBG funds will be coordinated with other public and private resources;
- f.* Include a description of how CSBG funds will be used to support innovative community and neighborhood-based initiatives related to the purposes in rule 421—21.2(216A,PL97-35); and
- g.* Include outcome measures to be used to measure eligible entity performance in promoting self-sufficiency, family stability, and community revitalization.

**21.6(3) *Nondiscrimination provisions.*** Eligible entities must ensure that no person shall, on the basis of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any activity funded in whole or in part with CSBG funds.

**21.6(4) *Community assessment.*** Eligible entities must conduct a community assessment at least once every three years. The community assessment shall include data specific to poverty, qualitative and quantitative data, and key findings on the causes and conditions of poverty and the needs of the communities assessed. The results of the assessment shall be used to plan activities contained in the community action plan.

**21.6(5) *Contract.*** The DCAA will issue the eligible entity a CSBG contract once the DCAA accepts the community action plan. The contract shall specify required and allowable program activities, general and special conditions, program and fiscal reporting, and audit requirements.

**421—21.7(216A,PL97-35) Review and acceptance of community action plans.**

**21.7(1) *Compliance review.*** All activities proposed in the community action plan shall be reviewed by DCAA personnel for:

- a. Compliance with the specific purposes and uses of funds outlined in rules 421—21.2(216A,PL97-35) and 421—21.3(216A,PL97-35);
- b. Inclusion of assurances that the eligible entity will conduct the CSBG in compliance with all applicable laws; and
- c. Inclusion and proper completion of all forms and instructions included in the request for community action plans.

**21.7(2) *Performance.*** Acceptance of community action plans is dependent on the satisfactory performance of the eligible entity in the past funding year(s). The minimum standards include: timely and adequate expenditure report submissions and program report submissions, prudent management of funds, conformance with state and federal laws relative to the restrictions in the use of funds, requirements regarding the eligible entity's annual audit, and adequate record keeping. Additionally, available records, audits, and determinations from other relevant state and federal agencies may be utilized.

**421—21.8(216A,PL97-35) Payments.**

**21.8(1) *Method of payment.*** Eligible entities receiving CSBG funds shall submit a monthly funding request and expenditures report containing the monthly expenditures of the eligible entity in carrying out the activities funded through the CSBG for each month in which activity occurred.

**21.8(2) *Payment refusal.*** DCAA may refuse or withhold payment of funds for good cause, such as evidence of fraud, lack of management controls, or noncompliance with CSBG contract conditions. Such refusal or withholding shall be appropriately documented, and the eligible entity shall be informed of the reason for refusal or withholding. Regular payment procedures may resume after corrective action and CSBG contract conditions have been met by the eligible entity.

**21.8(3) *Receipt of federal funds.*** All payments shall be subject to the receipt of CSBG funds by DCAA. The termination, reduction or delay of CSBG funds to the DCAA shall, at DCAA's option, be reflected in a corresponding modification to CSBG contracts already made.

**421—21.9(216A,PL97-35) Amendments to CSBG contract.**

**21.9(1) *Total budget.*** The total of all payments to the eligible entity by the DCAA for the activities required under the eligible entity's CSBG contract shall not exceed the total budget unless modified by a budget amendment to the CSBG contract or by written notice of a funding change by the DCAA.

**21.9(2) *Budget deviations.*** Eligible entity expenditures that exceed budgeted cost category amounts will not be disallowed for payment solely because of minor deviations from the budgeted amount. However, any deviation exceeding 10 percent of the budgeted cost category amount shall require a budget amendment to the CSBG contract, with prior approval granted by the DCAA.

**21.9(3) *Other amendments.*** Requests for community action plan or CSBG contract amendments other than those addressed in subrules 21.9(1) and 21.9(2) shall be considered on a case-by-case basis in conformance with applicable federal and state laws.

**421—21.10(216A,PL97-35) Ineligible items.** CSBG funds may not be used for the following activities or costs:

1. Any partisan or nonpartisan political activity or any political activity associated with a candidate, or faction group, in an election for public or party office; any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or any voter registration activity.

2. The purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility. Exceptions shall only be provided through the waiver procedure described in Section 678F(a) of the CSBG Act.

**421—21.11(216A) Audits and records.** Eligible entities shall arrange and pay for an annual audit. Audits shall be performed by a certified public accountant and in accordance with generally accepted auditing standards. Audit procedures shall conform to the 2 CFR Chapter I, Office of Management and Budget Governmentwide Guidance for Grants and Agreements; and Chapter II, Part 200, et al., Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. In addition, DCAA may request more frequent audits or examinations of financial records of the eligible entity in order to ensure adequate financial controls are in place and operating.

**421—21.12(216A,PL97-35) Designating eligible entities for unserved areas.** If any geographic area of the state is not, or ceases to be, served by a community action agency, and the governor decides to serve such area, the DCAA will adhere to the requirements in Section 676A of the CSBG Act, U.S. Department of Health and Human Services statutory guidance, and other federal and state laws to solicit applications from qualified organizations.

**421—21.13(216A,PL97-35) Termination and reduction of funding.** The DCAA may terminate the designation of or reduce the share of CSBG funds allocated to an eligible entity if the DCAA determines that an eligible entity fails to comply with the terms of an agreement, or the Iowa CSBG State Plan, to provide CSBG services or to meet appropriate standards, goals, and other requirements established by the DCAA, including performance objectives. If the DCAA finds cause to terminate the designation of or reduce the funding of an eligible entity, the DCAA will adhere to the requirements in Section 678C of the CSBG Act, U.S. Department of Health and Human Services statutory guidance, and other federal and state laws, including provisions of notification, technical assistance, corrective action, opportunity for a hearing, and federal review, to initiate proceedings to terminate the designation of or reduce the funding of the eligible entity.

**421—21.14(216A,PL97-35) Client appeal and hearing.** Eligible entities shall adopt a client appeal and hearing procedure to address CSBG client complaints. The procedure shall be used for all clients to file a complaint for the services or benefits provided by the eligible entity and funded solely by the CSBG. The procedure shall also be used when a community action program, co-funded with the eligible entity's CSBG funds, does not have a community action program-specific client appeal and hearing procedure.

**421—21.15(216A,PL97-35) Further criteria.** The Iowa CSBG State Plan and Application and the Iowa CSBG Policies and Procedures Manual are incorporated by reference as part of these rules. If any rule in this chapter conflicts with federal law or rules, federal law or rules shall prevail.

These rules are intended to implement Iowa Code chapter 216A and P.L. 97-35.

ITEM 24. Adopt the following new 421—Chapter 22:

#### CHAPTER 22

#### LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

**421—22.1(216A,PL97-35,PL98-558) Purpose.** Pursuant to the requirements of the U.S. Department of Health and Human Services (DHHS) and the Social Security Administration (SSA), as set forth in Title XXVI of the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35 as amended by P.L. 98-558, and Iowa Code section 216A.92, the department of human rights (department), division of community action agencies (division), will administer the low-income home energy assistance program (LIHEAP).

LIHEAP is designed to aid qualifying low-income Iowa households (homeowners and renters) in the payment of a portion of their residential heating costs for the winter heating season, to encourage regular

utility payments, to promote energy awareness and to encourage reduction of energy usage through energy efficiency, client education, and weatherization.

**421—22.2(216A,PL97-35,PL98-558) Household eligibility.**

**22.2(1)** Households with incomes at or below the annually determined federal poverty guidelines, but not to exceed 150 percent of the guidelines, or an amount equal to 60 percent of the state median income for the state, according to DHHS, which are published annually in the Federal Register, may be eligible for assistance under LIHEAP. To receive benefits, an application must be made, eligibility determined, and program funds available before any payments may be made.

**22.2(2)** Proof of income eligibility is required as outlined in the Iowa LIHEAP Policy and Procedures Manual. Any individual listed on a LIHEAP-approved application for the current fiscal year may not be listed on another application unless an exception is granted by the division.

**22.2(3)** Income criteria and guidelines are contained in the Iowa LIHEAP State Plan and the Iowa LIHEAP Policy and Procedures Manual.

**22.2(4)** All payments are contingent upon the availability of federal funds.

**22.2(5)** The amount of assistance a household may receive is determined by a payment matrix that considers household income, household size, fuel type, and other targeting factors, as described in the current Iowa LIHEAP Policy and Procedures Manual.

**22.2(6)** All households applying for this program will simultaneously be making application for weatherization assistance, and 421—Chapter 23 shall govern weatherization applications.

**22.2(7)** Both owner-occupied and renter-occupied households will be assisted.

**421—22.3(216A,PL97-35,PL98-558) Local administering agencies (LAAs).**

**22.3(1)** The department shall administer the LIHEAP program by contracting with LAAs meeting program and fiscal guidelines as required by federal law. Contracts with the LAAs will specify required and allowable program activities, DHHS regulations, special conditions, transfer of electronic data to fuel vendors and the state, program and fiscal reporting to the department, and audit requirements.

**22.3(2)** Each LAA will conduct outreach activities to ensure that eligible households are made aware of the program. In addition to its normal outreach functions, each LAA will authorize its workers to take applications in an applicant's home as well as at local community, church, and elderly centers and other locations deemed appropriate. A notice of the appeal and hearing procedure must be posted at each intake site, and a copy of the appeal and hearing procedure and any other state-required handouts must be given to each client at the time of application or determination.

**421—22.4(216A,PL97-35,PL98-558) Application period.** The application period for the program is between October 1, or the first working day of October, and April 30, or the last working day of April, or as defined in the annual Iowa LIHEAP Policy and Procedures Manual.

**421—22.5(216A,PL97-35,PL98-558) Payments.**

**22.5(1) *Types of payments.*** The following types of energy assistance payments may be made:

*a.* To suppliers on behalf of eligible households. The client's assistance shall remain as a credit on the client account until the program assistance is expended or the account is terminated.

*b.* Eligible households that pay an undesignated portion of the rent toward energy costs will receive assistance sent directly to the secondary vendor.

*c.* Direct payments may be made to eligible households as outlined in the Iowa LIHEAP Policy and Procedures Manual.

**22.5(2) *Duplicate and fraudulent payment control.*** Each LAA is required to monitor and prevent possible duplicate and other fraudulent applications and payments. Duplication cross-checks shall be based on household members' names, addresses, and social security numbers, as well as vendor account numbers.

**22.5(3) *Referrals.*** Each LAA is required to refer all suspected cases of fraud, including duplicate payments, overpayments, and fraudulent statements on applications, to the division for investigation.

**421—22.6(216A,PL97-35,PL98-558) Change in status.** The level of assistance for the program year will be determined based on the household's circumstances at the time of approval. If a household moves, a household of one passes away, or a household moves to a different service territory, etc., after applying for the program, the process outlined in the Iowa LIHEAP Policy and Procedures Manual is to be followed.

**421—22.7(216A,PL97-35,PL98-558) Vendor agreement.** A signed utility vendor agreement must be on file with the LAA before payments may be made to the vendor. If a fuel supplier does not sign a vendor agreement, a direct payment may be made to the eligible applicant. In cases where a vendor has not complied with all provisions of the vendor agreement, the state may approve direct payments to clients as an alternative.

**421—22.8(216A,PL97-35,PL98-558) Crisis assistance.** To be eligible for crisis assistance, a household must file an application, meet the income guidelines of LIHEAP, and meet the definition of "crisis" as defined in the Iowa LIHEAP Policy and Procedures Manual.

**22.8(1) Definition.**

"*Energy crisis*" means weather-related and supply shortage emergencies and other household-related emergencies, as defined in the current Iowa LIHEAP State Plan, including: a nonworking heating system, a temporary need for alternate shelter, disconnection from utility service, disconnection from utility service imminent, low or empty propane tank, and, when medically necessary, a window/portable air-conditioning unit or a repair of an existing central air unit.

**22.8(2) Evaluation.** Each crisis application will be evaluated individually by the LAA, who shall determine the appropriate resolution and the amount of assistance to be provided, as defined by the current Iowa LIHEAP State Plan and Iowa LIHEAP Policy and Procedures Manual.

**22.8(3) Appeal procedure.** Any household which has been denied crisis assistance may utilize the LIHEAP appeal procedure as described in rule 421—22.10(216A,PL97-35,PL98-558).

**421—22.9(216A,PL97-35,PL98-558) Assurance 16 activities.** LIHEAP customer services that encourage and enable households to reduce their home energy needs, and thereby reduce their need for energy assistance, shall be provided as assurance 16 activities. Services may include conservation education, referrals to other programs, needs assessment, budget counseling, vendor negotiations, energy assessment, energy plans, and low-cost energy efficiency measures.

**421—22.10(216A,PL97-35,PL98-558) Appeal and hearing procedures.** The following appeal and hearing procedures shall be used.

**22.10(1)** An applicant may initiate an appeal if the application was denied or if incorrect facts or improper procedures were used to determine eligibility, assistance amounts, or services. The applicant has 30 calendar days from the date of the approval or denial letter to appeal that decision by mailing or delivering the request for appeal to the LAA at which the application was made.

**22.10(2)** If the LAA neither approves nor denies the application within 30 calendar days of receipt of a complete application, the applicant may treat the failure to act as a denial. The applicant then has 30 additional calendar days to appeal.

**22.10(3)** To appeal, the applicant (claimant) must submit a written appeal to the LAA at which the applicant applied and include the action the applicant would like taken and any other information which might affect the decision. Those claimants unable to read or write shall have the LAA assist them in reading, writing, or understanding appeals and hearings and their associated procedures.

**22.10(4)** The LAA will act on the claimant's request and notify the claimant of the result in writing within seven calendar days of the date an appeal was requested (postmark date if sent in mail).

**22.10(5)** If the claimant does not agree with the decision reached, the claimant may write the LAA within 14 calendar days of the decision (postmark date if sent in mail) and request that a state hearing be held with the division. The claimant must explain in writing why the agency's decision is being appealed and include any information which might affect the decision.

**22.10(6)** The LAA will forward all information about the request for a hearing to the division, and a hearing will be scheduled within 14 calendar days of receipt of the appeal and request for a hearing. The claimant will receive written notice of a scheduled state hearing from the division. The notice will include the date, time, and place of the hearing. State hearings may be held by telephone at a mutually convenient time or in person. During the hearing, all information will be reviewed and a decision will be rendered by the division within seven calendar days.

**22.10(7)** The claimant may appeal the decision of the division to the Iowa department of inspection and appeals. The claimant must submit a written appeal to the division within seven calendar days (postmark date if sent in mail) of receiving the division's decision. The division will follow the appeal procedures outlined in this chapter.

**421—22.11(216A,PL97-35,PL98-558) Further criteria.** The Iowa LIHEAP State Plan, the Iowa LIHEAP Policy and Procedures Manual, and assistance award criteria for the program are incorporated by reference as part of these rules. If any rule in this chapter conflicts with federal law or rule, federal law or rule shall prevail.

These rules are intended to implement Iowa Code chapter 216A, P.L. 97-35, and P.L. 98-558.

ITEM 25. Adopt the following new 421—Chapter 23:

CHAPTER 23  
WEATHERIZATION

**421—23.1(216A,PL94-385,PL98-558) Purpose.** Pursuant to the Energy Conservation and Production Act, P.L. 94-385; the Omnibus Budget Reconciliation Act, P.L. 98-558; and Iowa Code section 216A.99, the department of human rights (department), division of community action agencies (division), will administer the weatherization assistance program.

The purpose of the program is to reduce heating and cooling costs for low-income households, particularly those with elderly members, persons with disabilities, or young children, by improving the energy efficiency of their homes while ensuring their health and safety.

**421—23.2(216A,PL94-385,PL98-558) Eligible households.**

**23.2(1)** A household occupying a dwelling unit is eligible for assistance under the weatherization assistance program if the household:

- a.* Has an annual income no higher than 200 percent of the federal poverty guidelines determined in accordance with criteria established by the Director of the Office of Management and Budget (OMB).
- b.* Is receiving supplemental security income (SSI) or family investment program (FIP) assistance, regardless of income.

**23.2(2)** Household eligibility, including income verification, will be determined in accordance with the application requirements for the low-income home energy assistance program (LIHEAP), the application for which is considered a joint application. Household eligibility and prioritization for weatherization services are established annually.

**23.2(3)** Both owner-occupied and renter-occupied dwellings may be weatherized. However, rental units occupied by low-income residents shall be weatherized providing benefits accrue primarily to the low-income tenants, rents are not raised because of the weatherization, and no undue or excessive enhancement occurs to the value of the dwelling unit. Landlords of rental dwellings must agree to have their dwellings weatherized before assistance is provided.

**23.2(4)** Provision of all weatherization program services are contingent upon the availability of funds.

**421—23.3(216A,PL94-385,PL98-558) Local administering agencies (LAAs).**

**23.3(1)** The division shall administer the program by utilizing community action agencies (CAAs), their approved subcontractors, or other public or nonprofit entities that have shown the ability or have the capacity to undertake a timely and effective weatherization program. Program funds shall be used for the

purchase and installation of weatherization materials; training and technical assistance; administration; and supportive services.

**23.3(2)** LAAs will be required to sign a contractual agreement which specifies required and allowable program activities, including U.S. Department of Energy regulations, special conditions, participant forms, program and fiscal reporting, and audit requirements.

**421—23.4(216A,PL94-385,PL98-558) Application period.** Households may apply for weatherization assistance between October 1, or the first working day of October, and September 30, or the last working day of September, as defined in the annual Weatherization Assistance Program State Plan.

**421—23.5(216A,PL94-385,PL98-558) Payments.**

**23.5(1) *Duplicate and fraudulent payment control.*** Each LAA is required to provide a system to monitor and prevent possible duplicate and other fraudulent applications and payments. Duplication cross-checks shall be based on the unique client/vendor identifier.

**23.5(2) *Referrals.*** Each LAA is required to refer all suspected cases of fraud, including duplicate payments, overpayments, and fraudulent statements on applications, to the division for investigation.

**421—23.6(216A,PL94-385,PL98-558) Appeal and hearing procedures.** The following appeal and hearing procedures shall be used.

**23.6(1)** When an applicant is denied assistance or wishes to file a complaint about the quality or extent of work performed, the applicant has 30 days from the date of the denial letter or completion of the work to appeal that decision by mailing or delivering the request for appeal to the LAA. Appeals for quality of work performed shall be subject to warranty requirements of the LAA and its subcontractors.

**23.6(2)** If the LAA neither approves nor denies an appeal within 30 calendar days of receipt, the applicant may treat the failure to act as a denial. The applicant then has 30 additional calendar days to appeal.

**23.6(3)** To appeal, the applicant (claimant) must submit a written appeal to the LAA through which weatherization services were provided and include the action the applicant would like taken and any other information which might affect the decision. Those claimants unable to read or write shall have the LAA assist them in reading, writing or understanding appeals and hearings and their associated procedures.

**23.6(4)** The LAA will act on the claimant's request and notify the claimant of the result in writing within 30 calendar days of the date an appeal was requested (postmark date if sent in mail).

**23.6(5)** If the claimant does not agree with the decision reached, the claimant may write the LAA within 14 calendar days of the decision (postmark date if sent in mail) and request that a state hearing be held with the division. The claimant must explain in writing why the agency's decision is being appealed and include any information which might affect the decision.

**23.6(6)** The LAA will forward all information concerning the request for hearing to the division, and a hearing will be scheduled within 14 calendar days of receipt of the appeal and request for a hearing. The claimant will be sent written notice of the date, time, and place of the hearing. State hearings may be held by telephone at a mutually convenient time or in person. At the hearing, all information will be reviewed and a decision rendered by the division within seven calendar days.

**23.6(7)** The claimant may appeal the decision of the division to the Iowa department of inspection and appeals. The claimant must submit a written appeal to the division within seven calendar days (postmark date if sent in mail) of receiving the division's decision. The division will follow the appeal procedures outlined in this chapter.

**421—23.7(216A,PL94-385,PL98-558) Further criteria.** The Weatherization Assistance Program State Plan and Weatherization Assistance Program Policy and Procedures Manual are incorporated by reference as part of these rules. If any rule in this chapter conflicts with federal law or rule, the federal law or rule shall prevail.

These rules are intended to implement Iowa Code section 216A.99, P.L. 94-385, and P.L. 98-558.



ITEM 26. Adopt the following new 421—Chapter 24:

CHAPTER 24  
FAMILY DEVELOPMENT AND SELF-SUFFICIENCY (FaDSS) PROGRAM

PREAMBLE

These rules define and structure the family development and self-sufficiency council within the department of human rights and the family development and self-sufficiency program administered by the division of community action agencies of the department of human rights. The purpose of the program is to fund, evaluate, and provide recommendations on programs that provide services to assist families at risk of instability or dependency on the family investment program to move toward self-sufficiency.

These rules establish council membership and duties, provisions for the grant proposal process and the awarding of grants, grant contract provisions, criteria and conditions for at-risk families, provisions for referral of families, grantee responsibilities, and the requirement for program evaluation.

**421—24.1(216A) Definitions.** As used in these rules, unless the context otherwise requires:

“*Applicant*” means a public or private organization that applies for a family development and self-sufficiency grant through the request for proposal process.

“*Council*” means the family development and self-sufficiency council.

“*Department*” means the department of human rights.

“*Division*” means the division of community action agencies of the department of human rights.

“*Grant*” means an award approved by the council to fund a family development and self-sufficiency project.

“*Grantee*” means an applicant whose proposal is selected by the council and who enters into a grant agreement with the division.

“*Program*” or “*FaDSS program*” means the family development and self-sufficiency (FaDSS) program.

“*Proposal*” or “*grant proposal*” means an application for grant funds to fund specific projects.

**421—24.2(216A) Council membership and duties.** Council membership, powers and duties are established in Iowa Code section 216A.107.

**421—24.3(216A) Council terms and procedures.**

**24.3(1) Terms of office.** Unless otherwise provided by law, terms of members, election of officers, and other procedural matters shall be as determined by the council pursuant to Iowa Code section 216A.107(2).

*a.* The term of office for the members of the council selected by the other members of the council pursuant to Iowa Code sections 216A.107(1) “*f*” to “*h*” and “*l*” shall be three years. Such members whose terms expire may be reappointed and shall receive actual expenses incurred while serving in their official capacity, subject to statutory limits. The members as specified under Iowa Code sections 216A.107(1) “*f*” and “*g*” shall also receive per diem compensation as provided in Iowa Code section 7E.6.

*b.* The term of office of a legislative member of the council shall end if the legislative member ceases to be a member of the general assembly.

*c.* Vacancies in membership of the council shall be filled in the same manner as the original appointment.

**24.3(2) Meetings and procedures.**

*a.* The council shall meet at least four times per year. Special meetings may be called by the chairperson or upon the written request of a majority of council members.

*b.* Members of the council shall elect a chairperson, vice chairperson and such other officers as the council deems necessary to two-year terms at the first council meeting held after July 1 in even-numbered

years. Officers shall assume office at the first meeting following the election. A vacancy in any elective office shall be filled by council action.

*c.* A quorum shall consist of a majority of the members eligible to vote. When a quorum is present, a position is carried by a majority of the members, or members' designees, eligible to vote.

*d.* Copies of the minutes of council meetings shall be filed in the office of the administrator of the Division of Community Action Agencies, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319.

*e.* The council is a governmental body subject to the provisions of Iowa Code chapters 21 and 22. Procedural matters of the council not addressed by these rules shall be determined according to Robert's Rules of Order, consistent with Iowa law.

*f.* The provisions of Iowa Code section 69.15 regarding nonattendance and vacancies shall apply to the council except that, with respect to Iowa Code section 69.15(3), the council chairperson shall accept or reject resignations and notify the member of such decision. Vacancies shall be filled as provided in subrule 24.3(1).

**421—24.4(216A) Identification of conditions and criteria for families at risk.** The council has identified the following conditions and criteria which may place families at risk of instability or of dependency on the family investment program:

**24.4(1)** *Educational level of head of household.*

*a.* Head of household has less than a high school education.

*b.* Head of household lacks basic literacy skills.

**24.4(2)** *Work experience of head of household.*

*a.* Head of household has never been employed.

*b.* Head of household has multiple episodes of employment lasting less than one year.

*c.* Head of household is currently unemployed.

**24.4(3)** *Household composition.*

*a.* Members are homeless or nearly homeless.

*b.* Members outside the nuclear family are in residence.

*c.* One or more children in the household were born while the parent was on public assistance.

*d.* One or more children in the household are identified as having special needs.

*e.* Household includes an alcohol or substance abuser.

*f.* Household includes a past or current perpetrator of child abuse or domestic violence.

*g.* Household includes a member with a record of incarceration.

**24.4(4)** *Background of head of household.*

*a.* Head of household was a teenager at birth of first child.

*b.* Head of household has a disability or chronic illness (mental or physical).

*c.* Head of household is a past or current victim of child abuse or domestic violence.

*d.* Head of household grew up in a household with alcohol or substance abuse.

**24.4(5)** *Public assistance history.*

*a.* Head of household grew up in a household that received public assistance.

*b.* Household has experienced multiple episodes of receipt of public assistance.

*c.* Household has been on public assistance for three or more years.

**24.4(6)** *Other conditions.* The council has also identified the following conditions that may contribute to instability or long-term dependency:

*a.* Geographic location.

*b.* Lack of employment opportunity.

*c.* Lack of available services.

*d.* Lack of transportation.

**421—24.5(216A) Referral of families.** Families who meet one or more of the conditions and criteria identified in rule 421—24.4(216A) may be referred to the program by the department of human services, the department of workforce development, family self-referral, or other sources. The department of

human services shall provide to the division on a monthly basis a list of families who are identified as receiving family investment program benefits and who are not currently participating in the FaDSS program.

**421—24.6(216A) Funding of grants.**

**24.6(1) *Availability of funds.*** The council shall develop requests for proposals for the awarding of grants, subject to availability of funds. Grants shall not exceed 36 months; however, the division shall approve grantee budgets on an annual basis, based upon and subject to available funds.

**24.6(2) *Grant application process.*** Applications for grants shall be distributed by the division through a request for proposals. Applicants shall submit proposals to the division in accordance with instructions. Applications shall be submitted by mail or hand delivery to the Bureau of Community Services, Division of Community Action Agencies, Department of Human Rights, Second Floor, Lucas State Office Building, Des Moines, Iowa 50319, by the date and time indicated in the request for proposals.

**24.6(3) *Grant proposals.*** Grant proposals for the program shall include the following elements:

*a.* Designation of the families to be served that meet one or more criteria for being at risk of family instability or of dependency on the family investment program, and agreement to serve families who are referred by the department of human services from the family investment program and who meet the criteria.

*b.* Designation of the services to be provided for the families served, including assistance regarding job-seeking skills, family budgeting, nutrition, self-esteem, methamphetamine education, health and hygiene, parenting and child education preparation, and goal-setting. Proposals shall indicate the support groups and support systems to be developed for the families during the transition between the need for assistance and self-sufficiency.

*c.* Designation of the manner in which other needs of the families will be provided for, including but not limited to child care assistance, transportation, substance abuse treatment, support group counseling, food, clothing, and housing.

*d.* Designation of the process for training of staff that provides services and the appropriateness of training for the purposes of meeting family development and self-sufficiency goals of the families served.

*e.* Designation of the support available within the community for the program and for meeting subsequent needs of families and the manner in which community resources will be made available to the families served.

*f.* Designation of the manner in which the program will be subject to audit and evaluation.

*g.* Designation of agreement provisions for tracking and reporting performance measures.

*h.* Description of project budget. Budgets must conform to all applicable state and federal requirements regarding allowable costs.

*i.* Description of overall organizational capacity to successfully meet program goals, including personnel and fiscal management capacity.

**24.6(4) *Selection of grant proposals.*** Criteria for selection of grant proposals include, but are not limited to, the elements identified in subrule 24.6(3). All proposals timely received shall be reviewed by the division, which shall make recommendations to the council. The council shall review the projects recommended by the division and make the final decision with respect to grant awards.

**24.6(5) *Notification of applicants.*** Applicants shall be notified of grant award decisions within 60 days after the due date for receipt of proposals.

**421—24.7(216A) Grants not renewed and grants terminated or reduced.** If the council determines that a grantee's project funding will not be renewed or if the council terminates or reduces a grantee's funding, the balance of funds not renewed or terminated or reduced shall be awarded by the council to other grantees for which funding is approved, based on criteria approved by the council. In the event no previously approved grantees have been selected, the council shall fund new grantees selected by the council as a result of a competitive grant application process.

**421—24.8(216A) Appeal.** Applicants dissatisfied with the council’s actions regarding grant proposals for funds and grantees dissatisfied with termination of a contract may appeal the council’s decision. The letter appealing the decision shall be submitted to the division within ten business days of the date of the notice of decision. The appeal must be based on a contention that the process violated state or federal law, policy, or rule; did not provide adequate public notice or was altered without adequate public notice; or involved conflict of interest or was biased or unfair. The appeal must specify the basis for the appeal and must include supporting evidence. Within 15 working days of the receipt of the appeal, the director of the department shall issue a final decision.

In the case of a grant award, no disbursements will be made to a grantee for a period of ten calendar days following issuance of the notice of decision to award. If an appeal is filed within the ten days, all disbursements will be held pending a final decision on the appeal. All applicants will be notified if an appeal is filed.

**421—24.9(216A) Contract with grantee.** Funds for grants approved by the council shall be awarded pursuant to a contract entered into by the division and the grantee.

**24.9(1) Negotiation.** The division shall conduct contract negotiations with the selected applicant, including negotiations regarding possible modifications to a grant proposal.

**24.9(2) Withdrawal of contract offer.** If the applicant and the division are unable to successfully negotiate a contract, the council may withdraw the award offer and award the grant to the applicant with the next-highest-scoring proposal.

**24.9(3) Contract revisions.** The division and the grantee may negotiate revisions to the contract to allow for nonmaterial expansion or modification of services so long as such revisions do not increase the total amount of the grant. The division shall have the right to approve an amendment to the contract budget moving grant funds between budget line items if the funds represent more than 10 percent of the budget line item.

**421—24.10(216A) Grantee responsibilities.**

**24.10(1) Marketing.** The grantee shall be responsible for marketing its services to referral sources and to families who have been referred to the program. All marketing plans, procedures, and material used by the grantee must be approved in writing by the division prior to use.

**24.10(2) Selection of families.** Grantees shall serve referred families who meet one or more of the risk criteria, subject to capacity limitations. For the families who voluntarily agree to participate in the program, the grantee is responsible to timely notify the division through the FaDSS data system of the enrollment. This notification shall identify the families in the department’s database who are receiving grantee services.

**24.10(3) Record management.** The grantees shall maintain records which include, but are not limited to:

- a. Specific family information.
- b. Specific services provided.
- c. Fiscal records of expenditures.
- d. Any other specific records as may be determined necessary by the division.

**24.10(4) Reports.** Grantees shall provide to the division the following reports:

- a. A monthly funding request and expenditure report that includes, but is not limited to, grant funds expended as they relate to each line item in the budget.
- b. An annual report that includes a summary of the activities by the grantee during the contract period.
- c. Other reports as deemed necessary by the division.

**421—24.11(216A) Evaluation.** The grantee shall be evaluated by the division at least once prior to the end of each 12-month period of the contract. The purpose of the evaluation is to evaluate the progress

of the grantee toward the stated goals and objectives of the project, as well as other matters relating to contractual obligations. The grantee shall receive a written report of the evaluation from the division.

These rules are intended to implement Iowa Code section 216A.107 and chapter 17A.

ITEM 27. Adopt the following new 421—Chapter 25:

CHAPTER 25  
INDIVIDUAL DEVELOPMENT ACCOUNT (IDA)

**421—25.1(541A) Definitions.** As used in these rules, unless the context otherwise requires:

*“Account holder”* means an individual who is the owner of an individual development account.

*“Administrator”* means the administrator of the division of community action agencies of the Iowa department of human rights.

*“Charitable contributor”* means an individual, company or organization that makes a contribution through a nonprofit association described in Section 501(c)(3) of the Internal Revenue Code, which association makes a deposit to an individual development account and which association is exempt from taxation under Section 501(a) of the Internal Revenue Code.

*“Division”* means the division of community action agencies of the Iowa department of human rights.

*“Federal poverty level”* means the poverty income guidelines established annually for a calendar year and published in the Federal Register by the U.S. Department of Health and Human Services.

*“Financial institution”* means a financial institution including, but not limited to, a bank, savings and loan, or credit union approved by the division to accept individual development accounts.

*“Household”* means the adults related by blood, marriage or adoption, or who are unrelated but have maintained a stable family relationship together over a period of time, and individuals under 18 years of age related to the above adults by marriage, blood or adoption who are living together. “Living together” refers to domicile as evidenced by the parties’ intent to maintain a home for their family and does not include a temporary visit.

*“Individual contributor”* means an individual who makes a deposit to an individual development account and is not the account holder or a charitable contributor.

*“Individual development account”* or *“IDA”* means an investment account which has the characteristics described in Iowa Code section 541A.2 and is operated by the operating organization.

*“Individual development account state match fund”* means the fund established in the state treasury under the authority of the division into which are deposited funds for payment to operating organizations for state match payments to individual investment accounts and administrative costs to implement the individual investment account program.

*“Minor account holder”* means an account holder who is younger than 18 years of age.

*“Operating organization”* means an entity selected by the division for involvement in operating individual development accounts directed to the eligible target population.

*“Source of principal”* means any of the following sources of a deposit:

1. Deposits made by the account holder.
2. Deposits of state match payments.
3. Deposits of individual development account moneys that are transferred from another individual development account holder. The moneys transferred from another individual development account shall be considered to be a deposit of principal made by the account holder.
4. Deposits made on behalf of the account holder by an individual contributor or a charitable contributor.

**421—25.2(541A) Establishment of individual development accounts.** An investment account qualifies as an IDA when it is established and operates in accordance with the following:

**25.2(1) Operating organization.** The investment account shall be established through an operating organization.

**25.2(2) Account.** The account shall be opened at a financial institution and kept in the name of an individual account holder.

**25.2(3) Deposits.** Deposits made to an IDA are also known as sources of principal and shall be made in any of the manners indicated in the definition of “source of principal” in rule 421—25.1(541A).

**25.2(4) Investment of funds.** The funds deposited in the IDA may be invested in any investment that the financial institution is authorized to offer to the public.

**25.2(5) Income.** The account earns income.

**25.2(6) Maximum deposits of principal.** The total of all sources of principal in an individual development account may not exceed \$30,000.

**421—25.3(541A) Individual development account state match fund.** An individual investment account state match fund is created in the state treasury under the authority of the division, the administrator of the IDA program. Funds in the state match fund shall be used by the division to provide the state match payment for account holder deposits in accordance with Iowa Code section 541A.3 and for the costs of administration of the IDA program. At least 85 percent of the funds appropriated to the state match fund shall be used for state match payments, and the remainder may be used for the administrative costs of the operating organization. Interest or earnings on moneys deposited in the state match fund shall be credited to the fund. Notwithstanding Iowa Code section 8.33, moneys appropriated to the state match fund shall not revert to any other fund.

**421—25.4(541A) Eligibility, state match payments, and state tax provisions.**

**25.4(1) Eligibility based on countable household income level.** Eligibility shall be based on the prospective account holder’s household income for the calendar year preceding the calendar year in which the IDA will be opened. The household income shall not exceed 200 percent of the federal poverty level as published in the same year. If an account holder’s household income exceeds 200 percent of the federal poverty level in any subsequent year following the year that the account holder established the account, the account shall remain open, but the account holder shall not be eligible to receive the state savings match payment for deposits made during the year following the year when the household income exceeds 200 percent of the federal poverty level. If the prospective account holder files an income tax return on a fiscal year basis, the household income must nonetheless be computed on a calendar year basis.

**25.4(2) Countable household income.**

a. The household’s countable income shall be the Iowa net income as defined in Iowa Code section 422.7, with the following inclusions and exclusions:

(1) Inclusions to the extent not already included in Iowa net income are as follows:

1. Capital gains.
2. Alimony.
3. Child support money.
4. Cash public assistance and relief, except property tax relief under Iowa Code chapter 425, subchapter II.

5. The gross payment amount of any pension or annuity including, but not limited to, railroad retirement benefits.

6. Military retirement and veterans’ disability pensions.
7. Interest which is received from local, state or federal government securities.
8. Workers’ compensation.
9. The gross amount of disability income or “loss of time” insurance.

(2) Exclusions are as follows:

1. Gifts from nongovernmental sources.
2. Surplus foods, including food assistance.
3. Payments received by an individual under the age of 18 under the federal Social Security Act.
4. Other in-kind relief supplied by a governmental agency.

b. Income shall not be reduced by either a net operating loss carryover or by a capital loss carryover.

**25.4(3) *Determination of income status and eligibility.***

a. In lieu of calculating countable household income as provided in subrule 25.4(2) to determine income status and eligibility of an individual to hold an IDA, the operating organization may use evidence of the individual's enrollment in a program with income eligibility restrictions that are equal to or less than the maximum household income provided in subrule 25.4(1) as sufficient for determining an individual's eligibility to hold an IDA.

b. In order to determine the amount of countable household income of the individual seeking to open an IDA and to maintain household income records on an annual basis, the operating organization shall use any of the following methods or other methods deemed appropriate by the operating organization to obtain accurate income information:

(1) The operating organization shall ask both the individual who wishes to establish an IDA and other members of the individual's household who have filed federal or state income tax returns to furnish a copy of the returns with attached W-2 statements, to sign a release of information form permitting the operating organization to receive from the Iowa department of revenue summary information indicating the Iowa net income, or to receive a copy of the state income tax return for the specific calendar year used to establish income eligibility to participate in the IDA program and for specified successive calendar years during which the IDA account is open. The operating organization shall protect the confidentiality of this information.

(2) If the individual and members of the individual's household have not filed federal or state income tax returns for the calendar year used to determine eligibility, the operating organization shall ask the individual to provide copies of available financial records of the household to determine the amount of countable income for the calendar year used to determine eligibility.

(3) The operating organization may also ask the individual seeking to hold an IDA to sign a release of information form allowing the operating organization to obtain individual and household income records held by agencies administering the programs referred to in paragraph 25.4(3) "a." The operating organization shall use this information to verify and maintain household income records of individuals seeking to hold an IDA, thereby facilitating the administration of the IDA program. The operating organization shall maintain the confidentiality of this information. Countable household income determinations shall include the amount of the cash assistance provided through the programs referred to in paragraph 25.4(3) "a."

(4) If an individual has minimal or no financial records and the operating organization determines that the totality of the individual's circumstances corroborates a credible explanation for the absence of said records, the operating organization may accept a written self-declaration from the individual as sufficient to document initial income eligibility to hold an IDA.

c. The operating organization shall obtain and maintain income information records from the account holder and all members of the account holder's family on a yearly basis to determine continued IDA eligibility.

**25.4(4) *Exemption from income tax for income earned on assets in an IDA.*** Income earned on principal in an IDA shall be exempt from state income tax even if the account holder's household income is greater than 200 percent of the federal poverty level for the tax year.

**25.4(5) *State match payments.*** The operating organization shall determine the account holder's countable household income and account deposits on an annual basis for the purpose of computing the state match payment. The operating organization shall file with the division a claim for a state match payment on behalf of the account holder by April 30 of the year following the year in which the account holder made deposits into the IDA. The claim shall be filed on a form provided by the division. The division shall make a payment of a savings match on a 1:1 ratio on amounts of up to \$2,000 that an eligible account holder deposited in the account holder's account the previous year. The total state savings match for all years shall not exceed \$2,000 for any IDA. Neither the moneys transferred to an IDA from another IDA nor the state match received by the account holder pursuant to this subrule shall be considered an account holder deposit for purposes of determining a state match payment. The

division or operating organization shall make the state match payment directly to the IDA in the manner deemed appropriate by the division.

**25.4(6) Tax implications.** IDAs shall be subject to department of revenue rule 701—40.44(422,541A).

**421—25.5(541A) Requests for proposals—operation of IDAs.**

**25.5(1) Issuance of requests for proposals.** The division shall issue requests for proposals (RFPs) for operating organizations interested in operating an IDA program. The RFP shall require the operating organization to provide information in its proposal regarding the financial institution that the operating organization will use for the proposed IDA program. The division shall include such information in evaluating proposals submitted in response to the RFP.

**25.5(2) Review criteria used to evaluate and select proposals responding to the RFP.** The division shall evaluate and select proposals submitted by operating organizations in response to the RFP based upon, but not limited to, the criteria as provided in the RFP and the following criteria, which shall be ongoing responsibilities of the operating organization:

*a.* The project shall provide for a safe and secure investment mechanism for IDAs using a financial institution approved by the division. This provision shall include assurances to contributors that a process is in place to ensure that contributions will be used for approved purposes as provided in subrule 25.6(1).

*b.* The proposed project shall link the making of an account holder's contributions to an IDA with other services provided by or outcomes identified by the operating organization in the proposal. The proposed project shall include mechanisms for the operating organizations to monitor and enforce the identified outcomes and services.

*c.* The operating organization shall provide documentation establishing experience and ability to execute the project as proposed. Minimum capabilities shall include:

- (1) An ability to provide financial education including asset-specific education;
- (2) An ability to link with tax preparation assistance;
- (3) Familiarity and ability to work with the proposed target population; and
- (4) A strong record of successful management.

*d.* The operating organization's proposal shall include a commitment by the operating organization to provide independent matching funds for contributions made by account holders to an IDA on not less than a 1:1 ratio.

*e.* The proposal shall include a monitoring and evaluation plan for certifying the proposed project's outcomes.

*f.* The proposal shall include agreement and acknowledgment by the operating organization that it shall have ongoing responsibility for:

(1) Certifying that an investment account is an IDA based on its having the characteristics described in Iowa Code section 541A.2.

(2) Certifying annually the income eligibility of each account holder and the amount of contributions made by the account holder to the IDA during the preceding tax year, in order to determine the account holder's eligibility for the state match payment for such year.

(3) Recording annually the contributions made by the account holder, individual and charitable contributors, and the state.

(4) Submitting information regarding the IDA and account holders to the division as requested.

**25.5(3) Additional evaluation criteria in the RFP.** The division may include additional evaluation criteria in the RFP, including but not limited to the operating agency's ability to network with other agencies or to form a communitywide consortium of agencies, if desirable, to operate IDAs; ability to form an effective working relationship with banks or other financial institutions; and ability to raise funds to provide an independent match on account holder deposits.

**25.5(4) Other considerations and guidelines.** Other considerations and guidelines in implementing IDAs are:



a. The division shall have authority to designate and limit the number of locations where IDA projects shall be implemented, taking into account demographic characteristics and geographic considerations.

b. The division shall require all IDA operating organizations and projects to comply with any federal individual development account program requirements for drawing federal funding.

c. The division and the operating organization shall enter into an agreement that specifies the responsibilities of both parties. The agreement shall incorporate by reference the provisions of the RFP.

d. The operating organization shall maintain a clear and precise audit trail of all deposits and withdrawals of funds in IDAs. All withdrawals from an IDA shall require a signature of approval from the operating organization. Upon the termination of the agreement between the operating organization and the division or upon the discontinuance of the IDA program for any reason, the IDA accounts under the management of that operating organization shall terminate and the funds in the IDAs shall be distributed to the account holders, unless the operating organization and a successor operating organization located in the same geographic area and operating an IDA program approved by the division enter into an agreement for the transfer of IDA accounts to the successor operating organization. The division shall have authority to review and approve in advance the agreement between the two operating organizations.

e. Upon the termination of an operating organization's relationship with the financial institution holding its IDA accounts, the operating organization managing the accounts shall enter into an agreement with a division-approved successor financial institution to hold the accounts and shall arrange for the transfer of the accounts to the new financial institution. The new agreement shall be subject to the division's review and advance approval.

f. If an account holder moves within the state to a location that is not served by the operating organization but is served by another operating organization with a division-approved IDA program, the original operating organization shall arrange for the transfer of the account to a financial institution that has an agreement with the operating organization in the new location. If there is no operating organization in the new location, the IDA account shall be closed, with funds in the account distributed to the account holder; alternatively, the operating organization and the account holder may jointly agree to maintain the account under the management of the existing operating organization and financial institution. The operating organization shall provide a written notification to the division of all transfers of IDA accounts to the management of a new operating organization.

#### **421—25.6(541A) Authorized withdrawals of principal and income.**

**25.6(1)** *Approved purposes for withdrawal of funds from an IDA.* An account holder may withdraw principal and income earned on principal from an IDA only with the written approval of the operating organization and only for the following approved purposes:

a. Educational costs at an accredited institution of higher education, which costs include, but are not limited to, tuition, laboratory fees or other fees for use of facilities, books, and other supplies.

b. Training costs for an accredited or licensed training program, or training program approved by the division, which costs include, but are not limited to, tuition, laboratory fees or other fees for use of facilities, books, and other supplies.

c. Purchase of a primary residence.

d. Capitalization of a small business start-up.

e. An improvement to a primary residence which increases the tax basis of the property.

f. Emergency medical costs for the account holder or for a member of the account holder's family. However, only one withdrawal from an IDA can be made for this purpose, and the amount of the withdrawal shall not exceed 10 percent of the account balance at the time of the withdrawal.

g. Purchase of an automobile.

h. Purchase of assistive technology, home or vehicle modification, or other device or physical improvement to assist an account holder or family member with a disability.

**25.6(2)** *Conditions on withdrawals of principal and income.* An account holder may withdraw funds from the account holder's IDA subject to the following conditions:

a. Any amount of principal and income earned on principal, provided the sum is authorized under subrule 25.6(1) and in accordance with the procedure for authorized withdrawals set forth under subrule 25.6(3).

b. If the account holder is 59½ years of age or older, any amount of principal and income earned on principal. Such withdrawals shall not require the approval of the operating organization.

**25.6(3) Procedures for account holder deposits and withdrawals.** The following procedures (or such other procedures as agreed upon by the operating organization and financial institution to facilitate authorized withdrawals) shall apply to account holder deposits and withdrawals from an IDA:

a. For deposits, the account holder shall fill out and sign a deposit form provided by the operating organization, indicating the amount and date of a deposit by the account holder into the IDA, and shall submit the form to the financial institution. The form shall be signed by the financial institution, which shall send copies to the account holder and the operating organization.

b. For a withdrawal, the account holder shall fill out and sign a withdrawal form provided by the operating organization, indicating the amount, date, and purpose of the withdrawal. The account holder shall submit the form to the operating organization or its designated agent for approval and signature. The operating organization shall retain a copy and submit the withdrawal form to the financial institution to implement the electronic transfer of the funds or issuance of a check, payable to the account of the vendor as payment for an approved purpose for the withdrawal; or, if neither electronic transfer nor check issuance is possible or cost-effective, then the financial institution shall issue a two-party payee check made out to the account holder and to the vendor. If the approved purpose is for capitalization of a small business, the check shall be payable to the account holder's business account at a financial institution and to the vendor requiring payment for providing the service or product relative to the account holder's business.

#### **421—25.7(541A) Notice of nonapproved withdrawals and closure of the account.**

**25.7(1) Nonapproved withdrawals and attempted withdrawals for nonapproved purposes.** The financial institution shall notify the operating organization within five calendar days of any withdrawals or attempted withdrawals that appear to be nonapproved. The financial institution shall refuse to release any funds that do not have the written authorization of approval from the operating organization.

**25.7(2) Closure of an IDA by the operating organization.** The operating organization may close an IDA if the operating organization determines any of the following:

a. The account holder has withdrawn funds from the account for a purpose not authorized by subrule 25.6(1), or funds have been withdrawn under false pretenses and have been used for purposes other than for the approved purposes indicated at the time of the withdrawal.

b. There has been no activity in the IDA during the preceding 12 months.

c. The account holder has not complied with the terms of an IDA participation agreement between the account holder and the operating organization, after being provided notice of the requirement to comply with the agreement by the operating organization.

#### **421—25.8(541A) Transfers of assets of an IDA.**

**25.8(1) Transfers by an adult account holder.** An adult account holder may transfer all or part of the assets in the adult account holder's IDA to any other account holder's IDA. Upon compliance by the operating organization and financial institution with the requirements of rule 421—25.6(541A), IDA account holders who have transferred funds into another individual's IDA account and any beneficiaries of the transferee's IDA account shall sign a waiver of liability form releasing the operating organization and the financial institution from civil liability and responsibility for the wrongful withdrawals of funds by the account holder due to the account holder's false representation of the purpose of the withdrawal, resulting in the loss to the account balance of deposited principal funds, including individual and charitable contributions, transferred funds, and the state match payments.

**25.8(2) No transfers of assets from a minor account holder's IDA.** Neither a minor account holder nor the parents or legal guardian of such minor account holder shall have the right or ability to transfer assets from the minor account holder's IDA to the IDA of any other account holder.

**25.8(3) *Transfers when the account holder dies.*** At the time an IDA is established, the account holder shall name a contingent beneficiary(ies) or an account holder transferee to whom the assets of the account holder's IDA shall be transferred upon the account holder's death. Upon the account holder's death, the account assets shall be transferred to the named contingent beneficiary or to the transferee's IDA, as applicable. A named beneficiary or transferee may be changed at the discretion of the account holder. If the named beneficiary or transferee is deceased or otherwise does not accept the transfer, the assets of the deceased account holder's IDA shall be transferred to the IDA state match fund.

These rules are intended to implement Iowa Code chapter 541A.

ITEM 28. Reserve **421—Chapter 26 to Chapter 29.**

ITEM 29. Adopt the following **new** 421—Chapter 30:

TITLE III  
DIVISION OF CRIMINAL AND JUVENILE JUSTICE PLANNING  
CHAPTER 30  
FUNCTIONS OF DIVISION

**421—30.1(216A) Definitions.** As used in these rules, unless the context otherwise requires:

*“Administrator”* means the administrator of the division of criminal and juvenile justice planning within the department of human rights.

*“Council”* means an advisory council or board established in Iowa Code chapter 216A, subchapter VIII.

*“Department”* means the department of human rights.

*“Director”* means the director of the department of human rights.

*“Division”* means the division of criminal and juvenile justice planning within the department of human rights.

*“Juvenile justice advisory council”* or *“JJAC”* means the state advisory group described in P.L. 93-415, Section 223(a)(3), and established through executive memorandum to oversee the administration of the Juvenile Justice and Delinquency Prevention Act (JJDP) formula grants in Iowa.

**421—30.2(216A,PL93-415) Functions of the division.** The division of criminal and juvenile justice planning is under the direction of an administrator, who reports to the director. The division's functions include identifying issues to improve the criminal and juvenile justice system through planning, research, data analysis, policy, youth development, and grant administration.

The functions of the division are described in Iowa Code chapter 216A, subchapter VIII.

**30.2(1)** The division shall provide staff support to the councils and the JJAC and shall assist them with the coordination of their efforts. Additionally, the division shall perform functions consistent with the duties and requirements outlined in Iowa Code chapter 216A, subchapter VIII; the Juvenile Justice and Delinquency Prevention Act, P.L. 93-415; and other relevant federal and state requirements.

**30.2(2)** The division shall establish and maintain procedures to collect and report all instances of juvenile detention and confinement occurring in the state of Iowa consistent with P.L. 93-415, Section 223(a)(15). The monitoring function shall include the following:

*a.* The division shall collect relevant self-report information and perform on-site verification of data from jails, police lockups, juvenile detention facilities, state training schools, mental health institutes, locked residential treatment facilities for youth, and other secure facilities.

*b.* Through written agreement, the jail inspection unit of the department of corrections shall provide the division and the specific jails and lockups with certification of their ability to separate juveniles and adults, consistent with P.L. 93-415, Section 223(a)(12)(A).

*c.* Through written agreement, the department of human services shall provide information to the division on holdings relative to P.L. 93-415, Section 223(a)(11), in contracted private facilities that the department of human services has the authority to license.

*d.* Through written agreement, the department of human services shall provide information to the division on holdings relative to P.L. 93-415, Section 223(a)(11), in state institutions that the department of human services administers.

**30.2(3)** Inquiries shall be directed to the department, the division, the councils, or the JJAC, at Lucas State Office Building, Des Moines, Iowa 50319. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays. The department's telephone number is (515)242-5655, and its fax number is (515)242-6119. The department's website is [humanrights.iowa.gov](http://humanrights.iowa.gov).

**421—30.3(216A) Functions and activity of the councils.** The councils are established by Iowa Code chapter 216A, subchapter VIII, and are charged with the responsibility to identify and analyze justice system issues of concern; develop and assist others in implementing recommendations and plans for system improvement; and provide for a clearinghouse of justice system information to coordinate with data resource agencies and to assist others in the use of justice system data. The councils shall advise the division on its administration of state and federal grants and appropriations and shall carry out other functions consistent with Iowa Code chapter 216A, subchapter VIII.

**421—30.4(216A,PL93-415) Functions and activities of the JJAC.** The JJAC is established through executive memorandum pursuant to P.L. 93-415 to advise the division on juvenile justice issues; make recommendations to the governor and legislature; review and comment on the division's reporting of Iowa's compliance with the requirements of P.L. 93-415, Sections 223(a)(11), (12), (13), (14) and (23); advise the division on its administration of state and federal grants and appropriations; supervise the division's administration of federal funds received from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) established in P.L. 93-415; and carry out other functions consistent with P.L. 93-415.

**421—30.5(216A,PL93-415) Council and JJAC meetings.**

**30.5(1)** Notice of meetings of councils and the JJAC shall be published 24 hours in advance of the meeting and will be mailed to interested persons upon request. The notice shall contain the specific date, time, and place of the meeting. Agendas shall be available by mail from the division to any interested persons if requested not less than five days in advance of the meeting. All meetings shall be open to the public unless a closed session is voted by two-thirds of the entire membership or by all members present for one of the reasons specified in Iowa Code section 21.5. Special or electronic meetings may be called by the chairperson upon a finding of good cause and shall be held in accordance with Iowa Code section 21.8. Meetings of councils and the JJAC shall be governed by the following procedures:

*a.* Persons wishing to appear before a council or the JJAC shall submit the request to the respective council not less than five days prior to the meeting. Presentations may be made at the discretion of the respective chairperson and only upon matters appearing on the agenda.

*b.* Persons wishing to submit written material shall do so at least five days in advance of the scheduled meeting to ensure that council or JJAC members have adequate time to receive and evaluate the material.

*c.* At the conclusion of each meeting, the time, date, and place of the next meeting shall be set unless the next meeting was previously scheduled and announced.

*d.* Cameras and recording devices may be used at open meetings provided they do not obstruct the meeting. The chairperson may request a person using such a device to discontinue its use when it is obstructing the meeting. If the person fails to comply with this request, the presiding officer shall order that person excluded from the meeting.

*e.* The chairperson may exclude any person from the meeting for repeated behavior that disrupts or obstructs the meeting.

*f.* Other meeting protocol and procedures consistent with this subrule and Iowa Code chapter 21 may be established by the councils or the JJAC through bylaws approved by a majority of the members subject to the bylaws.

**30.5(2)** Minutes of council or JJAC meetings are prepared and are available for inspection at the division office during business hours. Upon approval by the respective council or JJAC, the minutes will be posted on the division's website.

**30.5(3)** The councils or JJAC may form committees to carry out those duties as are assigned by the respective council. Meetings of the committees shall conform to the conditions listed in subrule 30.5(1) governing council and JJAC meetings.

These rules are intended to implement Iowa Code chapter 17A; Iowa Code chapter 216A, subchapter VIII; and P.L. 93-415.

ITEM 30. Adopt the following new 421—Chapter 31:

CHAPTER 31  
JUVENILE JUSTICE YOUTH DEVELOPMENT PROGRAM

**421—31.1(216A,232) Definitions.** As used in this chapter:

*“Administrator”* means the administrator of the division of criminal and juvenile justice planning within the department of human rights.

*“Applicant”* means a city, county, judicial district or other designated eligible entity preparing and submitting an application for funding through this program.

*“Application”* means a request to the division for funding that complies with federal and state requirements.

*“Decategorization,”* as established in Iowa Code section 232.188, means the department of human services' program whereby approved counties are permitted to pool their allocations of designated state and federal child welfare and juvenile justice funding streams, establish local planning and governance structures, and design and implement service systems that are more effective in meeting local needs.

*“Decategorization governance board”* means the board required to provide direction and governance for a decategorization project, pursuant to Iowa Code section 232.188.

*“Division”* means the division of criminal and juvenile justice planning within the department of human rights.

*“Formula-based allocation”* means a process that uses a formula to determine funding amounts to units of government or local public planning entities on a statewide basis.

*“Grant review committee”* means a committee established by the JJAC, the councils, or the division to review and rank applications for funding. Individuals who are not members of the JJAC or the councils may serve on this committee.

*“Justice Research and Statistics Association”* or *“JRSA”* is a national nonprofit organization that provides a clearinghouse of current information on state criminal justice research, programs, and publications.

*“Juvenile justice advisory council”* or *“JJAC”* means the state advisory group described in P.L. 93-415, Section 223(a)(3), and established through executive memorandum to oversee the administration of the JJDPA formula grants in Iowa.

*“Juvenile Justice and Delinquency Prevention Act”* or *“JJDPA”* means the federal Act, P.L. 93-415.

*“Law enforcement expenditures”* means the expenditures associated with police, prosecutorial, legal, and judicial services, and corrections as reported by the units of local government to the U.S. Census Bureau during the census of governments.

*“Local public planning entities”* means entities that have a local governance structure to plan, develop and coordinate services for children and families, and provide for implementation of services for children and families. Examples of local public planning entities include, but are not limited to, units of local government such as cities or counties, decategorization governance boards, community empowerment area boards, and school districts.

*“Office of Juvenile Justice and Delinquency Prevention”* or *“OJJDP”* means the federal office within the U.S. Department of Justice that administers the JJDPA and other discretionary grants.

*“Subgrantee”* means any applicant receiving funds through the juvenile justice youth development program from the division.

*“Unit of local government”* means a county, township, city, or political subdivision of a county, township, or city that is a unit of local government as determined by the Secretary of Commerce for general statistical purposes, and the recognized governing body of an Indian tribe that carries out substantial governmental duties and powers.

**421—31.2(216A,232) Purpose and goals.**

**31.2(1)** The purpose of the juvenile justice and youth development program is to assist the state in the establishment and operation of juvenile crime prevention programs; provide for greater accountability in the juvenile justice system; promote positive youth development; and comply with the JJDP core requirements regarding the deinstitutionalization of status offenders, sight and sound separation of adults and juveniles in secure facilities, prohibitions on the use of adult jails to hold juveniles, and the disproportionate confinement of minority youth.

**31.2(2)** The primary goal of the coordinated juvenile justice and prevention program is to promote positive youth development by helping communities provide their children, families, neighborhoods, and institutions with the knowledge, skills, and opportunities necessary to foster healthy and nurturing environments that support the growth and development of productive and responsible citizens. Other specific goals of this program are to reduce youth violence, truancy, involvement in criminal gangs, substance abuse and other delinquent behavior.

**421—31.3(216A,232,PL93-415) Program funding distribution.**

**31.3(1)** The division shall distribute funds available for this program through the following methods:

- a. Competitive grants.
- b. Formula-based allocations.
- c. Sole source contracts.

**31.3(2)** Funding through any of the methods listed in subrule 31.3(1) may be on an annual or multiyear basis.

**421—31.4(216A,232,PL93-415) Competitive grants.**

**31.4(1)** *Application announcement.* The administrator shall announce through public notice the opening of any competitive grant application process. The announcement shall provide potential applicants with information that describes eligibility conditions, purposes for which the program funding shall be available, application procedures, and all relevant time frames established for proposal submittal and review, grant awards, and grant expenditure periods.

**31.4(2)** *Preapplication.* The division may request potential applicants to submit a preapplication summary of their proposals. If a preapplication is required, the division shall provide all potential applicants with sufficient information detailing the extent of the preapplication and the criteria for review. Preapplications received in a timely manner shall be presented to the grant review committee for screening. The committee shall use the same ranking system for each preapplication. The ranking system shall be based on the criteria provided to the applicant through the division activities specified in subrule 31.4(1). Applicants shall be notified in writing of the screening decisions.

**31.4(3)** *Content of applications.* Required elements of the applications shall be published in the request for applications and shall be based on a point system established by the division that reflects the requirements of federal and state funding sources. The division shall develop the application and selection criteria.

**31.4(4)** *Application review and selection process.* The division shall conduct a preliminary review of each application to ensure that the applicant is eligible and the application is complete. All applications that are submitted in a timely manner by eligible applicants and contain the necessary information shall be presented to the grant review committee. Members of the grant review committee shall review each application and shall assign numerical scores to each application using criteria and point values established by the division and listed in the request for applications. The rank order of scores assigned to the applications by the review committee shall be the basis for funding recommendations for each application reviewed. The grant review committee shall forward its funding recommendations

for approval and final award decisions pursuant to rule 421—31.7(216A,232,PL93-415). Decisions to make final awards shall be consistent with applicable state and federal program requirements.

**31.4(5) *Conflict of interest.*** Persons shall not serve on the grant review committee or otherwise participate personally through decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding, application, request for a ruling or other determination, contract, grant, cooperative agreement, claim, controversy, or other particular matter in which funds administered by the division are used when, to the person's knowledge, the person or a member of the person's immediate family, a partner, an organization in which the person is serving as an officer, director, trustee, partner, or employee or any person or organization with whom the person is negotiating or has any arrangement concerning prospective employment, or has a financial interest of less than an arms-length transaction. If a person's agency or organization submits an application, the person shall not be present when the grant review committee's recommendations are acted upon by the JJAC or the councils.

**421—31.5(216A,232,PL93-415) Formula-based allocations.**

**31.5(1) *Funding recipients.*** Only units of local government, local public planning entities, and judicial districts may be considered eligible applicants to receive funding through this distribution method. The determination of which units of local government, local public planning entities, and judicial districts are eligible applicants shall be made according to the state or federal law or regulation that makes funding available to the division for this distribution method. When such a determination is not established in law or regulation, the administrator shall make the determination with the advice of the appropriate council or the JJAC.

**31.5(2) *Formula to determine individual allocation amounts.*** Allocation amounts to individual units of local government or local public planning entities shall be calculated according to the state or federal law or regulation that makes funding available to the division for this distribution method. When an allocation formula for funding to be distributed by the division is not established in this chapter or other law or regulation, the division shall calculate allocations based on a formula determined by the administrator. The formula shall be based on the number of children residing in the respective areas and may also be based on poverty rates, delinquency rates and other data relevant to child and family well-being. Application materials provided to the eligible units of local government, local public planning entities, or judicial districts shall specify the formula used to calculate the allocation.

**31.5(3) *Application procedures and requirements.***

*a.* Each unit of local government, local public planning entity, or judicial district that is eligible to be an applicant for funds pursuant to subrule 31.5(1) shall be contacted by the division and provided an application that must be completed by the applicant prior to the applicant's receipt of the allocation.

*b.* The application may require the submission of a comprehensive plan to prevent and reduce juvenile crime that reflects the purposes and goals in rule 421—31.2(216A,232) and that structures the coordination and collaboration of other relevant community programs and activities. Evidence of such coordination and collaboration may be required to include assurances and documentation that the plan for this program was developed to include, or be an integral part of, other areawide plans related to, for example, child welfare, substance abuse, health, or education.

*c.* The application may require documentation that the application was completed with the participation of representatives from, for example, law enforcement, county attorneys, county and city governments, and health, human services, education, and community service agencies.

*d.* The application may also require the applicant to certify and make assurances regarding policies and practices related to, but not limited to, funding eligibility, program purposes, service delivery and planning and administration capacities.

*e.* Each notified applicant shall submit the required information by the deadline established and announced by the division. The division reserves the right to extend the deadline.

*f.* Following its receipt and approval of a completed application, the division shall offer the applicant a contract authorizing the obligation of funds. These rules and all applicable state and federal laws and regulations shall become part of the contract by reference.

**31.5(4) *Allocations declined, waived or combined.***

*a.* As allowed by federal or state law, when an eligible local public planning entity, judicial district, or unit of local government declines to submit an application for funds, such funds shall be retained by the division to be reallocated among all participating units of local government, judicial districts, or local public planning entities or to be otherwise distributed for the development of services that have a statewide impact.

*b.* As allowed by federal or state law, the division may permit an eligible unit of local government to waive its right to a direct allocation and request that its allocation be awarded to and expended for its benefit by a larger or contiguous unit of local government or local public planning entity. A written waiver shall be required from the unit of local government that waives its right to a direct allocation and names a requested unit of local government or local public planning entity to receive and expend the funds. The unit of local government, judicial district, or local public planning entity receiving the funds must agree, in writing, to accept the redirected funds, to carry out all planning and application requirements and to serve as the fiscal agent for receiving the waived allocation. The division's instructions to eligible applicants shall describe the procedures required to implement this paragraph.

*c.* As allowed by federal or state law, the division may permit applicants to enter into regional coalitions by planning for and utilizing combined allocations from the participating units of local government or local public planning entities. A unit of local government, judicial district, or local public planning entity shall serve as the applicant and fiscal agent for purposes of carrying out planning and application requirements, and for receiving the allocation and obligating and expending funds for the benefit of the combined units. The division's instructions to eligible applicants shall describe the process to implement this paragraph.

**421—31.6(216A,232,PL93-415) Sole source contracts.** The division may determine, because of the nature of a certain problem or desired programmatic response, that a competitive grant or formula-based allocation process would not be the most appropriate or expeditious process through which to award funds. In such cases, the division may seek out a potential subgrantee with which it can develop a sole source contract for services. The division shall be alert to organizational conflicts of interest and noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. The division's awarding and administration of any sole source contract shall be governed by all relevant state and federal laws and regulations.

**421—31.7(216A,232,PL93-415) Program funding sources and related provisions.**

**31.7(1)** Sources of funding may include state, federal, and other funds made available to the division for the purpose of assisting units of local government, judicial districts, and local public planning entities in improving the criminal and juvenile justice systems. The division may combine funding from federal and state appropriations and grant programs to distribute through any of the methods outlined in rule 421—31.3(216A,232,PL93-415), as allowable by the sources of the funds.

**31.7(2)** Other funds. With the advice of the JJAC and the councils, the division shall, consistent with applicable state and federal law and regulation, determine the distribution methods, eligible applicants and any allocation formulas to be used when making such funding available.

**421—31.8(216A,232) Appeals.**

**31.8(1)** Applicants choosing to appeal funding decisions must file a written appeal with the administrator within ten calendar days of the written notification of the program's funding decisions.

**31.8(2)** All letters of appeal shall clearly state the reason(s) for the appeal and evidence of the reason(s) stated. Reason(s) for appeal must be based on a contention that the rules and procedures governing the funding process have not been applied properly. All appeals must clearly state in what manner the division failed to follow the rules of the selection process as governed by these administrative



rules or procedures outlined in the application materials provided to all applicants by the division. The letter of appeal must also describe the remedy being sought.

**31.8(3)** If an appeal is filed within the ten calendar days, the division shall not enter into a contract with any applicant involved in the application process being appealed until the administrator has reviewed and decided on all appeals received in accordance with the criteria in subrules 31.8(1) and 31.8(2). The administrator shall consider the information submitted by the appellant and relevant information from division staff when conducting the review. The review shall be conducted as expeditiously as possible so that all funds can be distributed in a timely manner.

**31.8(4)** The decision of the administrator shall represent the final division action for the purpose of implementing Iowa Code chapter 17A.

#### **421—31.9(216A,232) Contract agreement.**

**31.9(1)** *Contract offer.* Applicants shall be notified in writing of the division's intent to fund, contingent upon the funds available. The administrator shall have flexibility in determining which state and federal funds shall be utilized in awards and allocations to subgrantees. These rules and all applicable state and federal laws and regulations shall become a part of the contract by reference.

**31.9(2)** *Preaward negotiation.* The applicant may be requested to modify the original application in the negotiation process. The division reserves the right to fund all or part of the applicant's application.

**31.9(3)** *Withdrawal of contract offer.* If the applicant and the division are unable to successfully negotiate a contract, the division may withdraw the award offer and redistribute program funds in a manner consistent with the provisions of rule 421—31.14(216A,232).

**31.9(4)** *Contract modifications.* The subgrantee or the division may request a modification or revision of the contract.

**31.9(5)** *Reimbursement of expenditures.* Funds are to be spent to meet program goals as provided in the contract. Expenditures shall be reimbursed pursuant to regular reimbursement procedures of the state of Iowa.

#### **421—31.10(216A,232) Contract termination.**

**31.10(1)** *Termination by subgrantee.* The contract may be terminated by the subgrantee at any time during the contract period by giving 30 days' notice to the division.

**31.10(2)** *Termination by the division.*

a. The division may terminate a contract upon ten days' notice when the subgrantee or any of its subcontractors fail to comply with the grant award stipulations, standards or conditions. The division may terminate a contract upon 30 days' notice when there is a reduction of funds by executive order.

b. Termination for convenience. The performance of work under the contract may be terminated by the division in accordance with this clause in whole or, from time to time, in part whenever the division shall determine that such termination is in the best interest of the state. The division shall pay all reasonable costs associated with the contract that the subgrantee has incurred up to the date of termination. The division shall not pay for any work that has not been done prior to the date of termination.

c. Termination for default. If the subgrantee fails to fulfill its obligations under this contract properly or on time, or otherwise violates any provision of this contract, the division may terminate the contract by written notice to the subgrantee. The notice shall specify the acts of commission or omission relied on as cause for termination. All finished or unfinished products and services provided by the subgrantee shall, at the option of the division, become the state's property. The division shall pay the subgrantee fair and equitable compensation for satisfactory performance prior to receipt of notice of termination.

**31.10(3)** *Responsibility of subgrantee at termination.* Within 45 days of the termination, the subgrantee shall supply the division with a financial statement detailing all costs up to the effective date of the termination.

#### **421—31.11(216A,232) Required reports.**

**31.11(1)** Expenditure claim reports shall be required from subgrantees on provided forms. The division, pursuant to regular reimbursement procedures of the state of Iowa, shall reimburse subgrantees for actual expenditures specified in the approved budget.

**31.11(2)** Progress reports on program outcomes, program status and financial status shall be required from subgrantees on provided forms.

**31.11(3)** Other reports, including audit reports prepared by independent auditors, may be required by the division and specified in the request for applications or contract to assist in the monitoring and evaluation of programs.

**31.11(4)** Failure to submit required reports by the due date shall result in suspension of financial payments to the subgrantee by the division until such time as the reports are received. No new awards shall be made for continuation programs where there are delinquent reports from prior grants.

**421—31.12(216A,232) Subgrantee records.** Financial records, supporting documents, statistical records, and all other records pertinent to the program shall be retained by the subgrantee in accordance with the following:

**31.12(1)** Records for any project shall be retained for three years after final closeout and audit procedures are completed and accepted by the division.

**31.12(2)** Representatives of the state auditor's office and the division shall have access to all books, accounts, documents, and other property belonging to or in use by a subgrantee pertaining to the receipt of funds under these rules.

**421—31.13(216A,232) Allowable costs and cost restrictions.**

**31.13(1)** Grant funds from this program shall be used to support only those activities and services specified and agreed to in the contract between the subgrantee and the division. The contract shall identify specific cost categories against which all allowable costs must be consistently charged.

**31.13(2)** Funds appropriated for this program shall not be expended for supplantation of federal, state, or local funds supporting existing programs or activities. Instructions for the application and acceptance of competitive grants, formula-based allocations, and sole source contracts may specify other cost limitations, including but not limited to costs related to political activities, interest costs, fines, penalties, lawsuits or legal fees, and certain fixed assets and program equipment.

**421—31.14(216A,232) Redistribution of funds.** The division reserves the right to recapture and redistribute awarded funds based upon projected expenditures if it appears that funds shall not be expended by a subgrantee according to the conditions of the subgrantee's contract. Recaptured funds may be granted by the administrator to other applicants or subgrantees for services and activities consistent with the purposes and goals of the program.

**421—31.15(216A,232) Compliance with state and federal laws.** In acceptance of a grant, the subgrantee shall agree to comply with all applicable state and federal rules and laws, including but not limited to the JJDPA.

**421—31.16(216A,232) Immunity of state and agencies.** The subgrantee shall defend and hold harmless the state and any federal funding source for the state from liability arising from the subgrantee's performance or attempted performance of its contract, and the subgrantee's activities with subcontractors and all other third parties.

These rules are intended to implement Iowa Code chapter 17A; Iowa Code chapter 216A, subchapter VIII; P.L. 93-415; and P.L. 105-119.

ITEM 31. Reserve **421—Chapter 32 to Chapter 39.**

ITEM 32. Adopt the following new 421—Chapter 40:

TITLE IV  
DIVISION OF COMMUNITY ADVOCACY AND SERVICES  
CHAPTER 40  
FUNCTIONS OF DIVISION

**421—40.1(216A) Definitions.** As used in these rules, unless context otherwise requires:

*“Administrator”* means the administrator of the division of community advocacy and services, which is composed of the following offices:

1. Office of Latino affairs.
2. Office on the status of women.
3. Office of deaf services.
4. Office on the status of African Americans.
5. Office of Asian and Pacific Islander affairs.
6. Office of Native American affairs.
7. Office of persons with disabilities.

*“Commission”* means the following commissions established in Iowa Code chapter 216A:

1. Commission of Latino affairs.
2. Commission on the status of women.
3. Commission of deaf services.
4. Commission on the status of African Americans.
5. Commission of Asian and Pacific Islander affairs.
6. Commission of Native American affairs.
7. Commission of persons with disabilities.

*“Commissioner”* means a member of one of the commissions, appointed by the governor, and subject to confirmation by the senate pursuant to Iowa Code section 2.32.

*“Department”* means the department of human rights.

*“Division”* means the division of community advocacy and services within the department of human rights.

**421—40.2(216A) Functions of the division.** The division of community advocacy and services is under the direction of an administrator, who is appointed by and reports to the director of the department. The functions and responsibilities of the division and respective commissions are described in Iowa Code chapter 216A.

**40.2(1)** The administrator will assign members of the division to meet the responsibilities of each office and to assist corresponding commissions with their efforts. Commission assistance shall be provided by coordinating meetings as required in Iowa Code sections 216A.12, 216A.53, 216A.74, 216A.113, 216A.142, 216A.152, and 216A.162; providing public notice as required in the open meetings law, Iowa Code chapter 21; maintaining commission meeting records; providing data and information on programs, rules and laws which impact or serve Iowans who identify with groups represented by the offices in the division; updating the commission website in accordance with department guidelines; and reporting on division and office results, policies and processes at meetings.

**40.2(2)** The division will focus on achieving long-term economic, social and cultural equity for Iowans who identify with groups represented by the offices in the division. To ascertain key needs and areas of focus, the division will assess relevant data, create opportunities for Iowans who identify with groups represented by the offices in the division to connect with one another, and with state government, to raise concerns and suggest workable solutions. This will be accomplished by holding regular listening sessions, providing leadership development opportunities, and facilitating community engagement. The division will actively engage commissioners in these initiatives.

**40.2(3)** The division will provide assistance, training and consultation to state departments and agencies to enhance services that allow underrepresented populations to participate fully in the economic, social, and cultural life of the state.

**40.2(4)** The division will use its knowledge of programming and information clearinghouse to provide assistance for Iowans who identify with groups represented by the offices in the division. Direct assistance consists of the following:

- a.* Connecting Iowans with state departments, agencies and other organizations that provide the specific services, expertise or knowledge necessary to meet their needs.
- b.* Training or assisting Iowans to self-advocate with state and local government when possible.
- c.* Enhancing statewide and local knowledge of existing services and programs available for Iowans who identify with groups represented by the offices in the division.
- d.* Communicating about and advocating for the needs and the value to Iowa's economy, culture and society of Iowans who identify with groups represented by the offices in the division.

**40.2(5)** The division will work in collaboration with statewide and local organizations to assess the availability and accessibility of state and local services for Iowans who identify with groups represented by the offices in the division and shall identify gaps in available services, collect data relevant to the work of the division, make recommendations for improvements, and develop and facilitate the implementation of improvements when necessary. Time may be allocated by the division to develop, coordinate and assist statewide and local organizations when the provision of that coordination or assistance is determined to be in alignment with the department's or division's strategic plan, and staff resources are available.

**40.2(6)** The division will provide assistance to develop, coordinate and assist other organizations. This may include providing division members to serve on committees, boards or working groups; to assist in creating strategic plans or action plans; to speak at events or deliver training; and to provide information about the perspective and needs of members of underrepresented groups. Time may be allocated by the division to develop, coordinate and assist other public organizations when the provision of that coordination or assistance is determined to be in alignment with the department's or division's strategic plan, and staff resources are available.

#### **421—40.3(216A) Organization of the commissions.**

**40.3(1)** Each commissioner is an equal voting member of the commission on which the commissioner serves. A majority of the members shall constitute a quorum, and the affirmative vote of the majority is necessary for any substantive action taken by the commission.

**40.3(2)** Commissions shall appoint officers to serve two-year terms by voting at a commission meeting held in the first quarter of each even-numbered fiscal year. To qualify to serve as an officer, a commissioner must have at least two years remaining in the commissioner's term of appointment to one of the commissions. Commissions may appoint officers to positions as provided in Iowa Code sections 216A.12, 216A.53, 216A.74, 216A.113, 216A.142, 216A.152, and 216A.162. The roles of officer positions that are filled by commissions include, but are not limited to, the following:

- a.* Chairperson. This member shall establish the draft agenda, chair each commission meeting, and work with the division to establish a meeting schedule and communicate with members of the commission on which the chairperson serves to ensure a quorum at commission meetings.
- b.* Vice chairperson. This member shall work with the chairperson to establish the draft agenda and chair commission meetings in the absence of the chairperson.

**40.3(3)** Commissions shall appoint a member to serve as a voting member of the human rights board to serve a four-year term. Commissioners who are members of the human rights board shall serve their appointed term on the board unless a majority of a commission votes to appoint a new member to represent the commission on the human rights board, or the appointed commissioner is no longer able to serve or is no longer a member of a commission.

**40.3(4)** To carry out its duties, a commission may establish an advisory committee, work group, or other coalition composed of any combination of the following: members of the division, members of the public, and commissioners from its own commission or from other commissions within the division. The establishment of an advisory committee, work group or coalition requires a majority affirmative vote

of the membership of the commission, including the identification of a commissioner who will facilitate the work of the committee, group or coalition. Advisory committees, work groups and coalitions may make recommendations to the commission. Enactment of those recommendations requires a majority affirmative vote of the membership of the commission. Advisory committees shall include a facilitating member who is also a member of a commission. The facilitating member shall report on committee, work group or coalition meetings at regularly scheduled commission meetings and via electronic updates that shall be public record as required in the open records law, Iowa Code chapter 22.

**40.3(5)** Any member of a commission shall be deemed to have submitted a resignation if the member does not attend three or more consecutive commission meetings or if the member attends less than one half of the scheduled meetings held within any 12-month calendar period.

**40.3(6)** A member of the division or the administrator shall attend each meeting of the commissions to provide information and assistance in accordance with subrule 40.2(1).

**421—40.4(216A) Meetings of the commissions.**

**40.4(1)** Commissions shall meet as required by Iowa Code sections 216A.12, 216A.53, 216A.74, 216A.113, 216A.142, 216A.152, and 216A.162. No later than October 1, commissions shall establish and make public an annual schedule of required meetings for the following calendar year. A commission may alter its schedule with an affirmative vote of the majority of the members of the commission. The public shall be notified of alterations to the schedule within two business days of the official vote for alteration. A commission may hold additional special meetings with an affirmative vote of a majority of the membership of the commission. All meetings, including special meetings, shall be public meetings unless a closed session is approved pursuant to Iowa Code section 21.5. All official commission communication shall include each member of the commission, including the ex officio member, and the administrator.

**40.4(2)** Meeting agendas shall be posted as required by Iowa Code section 21.4. Meeting agendas will be available on the department website at least 24 hours in advance of the meeting unless the meeting meets criteria established in Iowa Code section 21.4 for an emergency meeting. Minutes of the meeting will be posted on the department website upon approval by the commission.

**40.4(3)** Members of the public attending a commission meeting shall request any necessary reasonable accommodations for their attendance at least five business days in advance of the scheduled meeting. Accommodations requested after this time frame will be made if reasonably possible. Accommodations may be made using appropriate services at the discretion of the department, with consideration of the needs of the public in attendance.

**40.4(4)** All commission meetings shall provide an opportunity for public comment. Commissions shall not limit public comment to persons who have preregistered with the commission. All members of the public addressing the commission shall be present at the meeting in person or via conference call or provide written comments. All members of the public addressing the commission in person, via conference call or in writing shall provide their full name, mailing address or other appropriate information to allow future correspondence, and city and state of residence. Commissions may limit the duration of public comment in total or per individual. The time and duration of public comment will be published on the meeting agenda at least 24 hours in advance of the meeting. The chairperson, vice chairperson, director, administrator, or member of the division may exclude any person from the meeting for comments or behavior that disrupts or obstructs the meeting.

**40.4(5)** Members of the public requesting to be placed on the commission agenda for a specific topic and duration shall make that request in person, by phone, by email or via the U.S. postal service to the commission chairperson or the division no later than three business days in advance of the commission meeting. The chairperson shall accept or deny a request and shall inform the individual making the request and the division of the decision no later than two business days in advance of the meeting using the same method of communication through which the request was received, followed by a written confirmation via U.S. postal service. The chairperson has sole discretion to accept or deny a request to appear on the agenda; however, denial of a scheduled time on the agenda does not preclude a member of the public from participating in the public comment portion of a meeting.

**40.4(6)** Substantial alterations to a published draft commission agenda shall be subject to an affirmative vote of the majority of a commission.

**40.4(7)** Positions of the commission, and publicly communicated messages regarding those positions from the commission, require an affirmative vote of the majority of a commission in a public meeting.

**421—40.5(216A) Functions of commissions.**

**40.5(1)** Commissions shall focus on achieving long-term economic, social and cultural equity for Iowans who identify with groups represented by the commission.

**40.5(2)** Biennial recommendations. To ascertain key needs and areas of focus, commissions shall provide insight and input regarding the changing needs of Iowans who identify with groups represented by the commission. This will be accomplished by assessing available data, participating in division-sponsored listening sessions or sponsoring additional listening sessions; and using this and other information to compile and present biennial policy and program recommendations to the department, board, legislature and governor by October 15 of each even-numbered year. The division shall compile all recommendations on behalf of the commissions into one document for presentation to the department, board, legislature and governor by November 15 of each even-numbered year. Commissions may offer more frequent recommendations with an affirmative vote of the majority of a commission.

These rules are intended to implement Iowa Code chapters 17A and 216A.

ITEM 33. Adopt the following new 421—Chapter 41:

CHAPTER 41  
HALL OF FAME

**421—41.1(216A) Iowa Women’s Hall of Fame.**

**41.1(1) Purpose.** The purpose of the Iowa Women’s Hall of Fame shall be to recognize significant achievements of Iowa women and to educate the public by identifying those whose efforts have enhanced and improved the quality of life for women in Iowa, the community, state, nation or world, or a particular profession or discipline.

**41.1(2) Committee.** The Iowa Women’s Hall of Fame committee shall consist of three commissioners of the commission on the status of women, one serving as the committee chairperson; two public members appointed by the committee chairperson; and the chairperson of the commission on the status of women as an ex officio member.

**41.1(3) Selection procedure.** The committee shall solicit nominations for the Iowa Women’s Hall of Fame. The committee shall recommend to the commission on the status of women for its approval no more than four individuals to be inducted into the Iowa Women’s Hall of Fame. The committee shall plan the ceremony and reception each year for the Iowa Women’s Hall of Fame.

**41.1(4) Cristine Wilson Medal for Equality and Justice.** The Cristine Wilson Medal for Equality and Justice shall memorialize the efforts and accomplishments of the commission on the status of women’s first chairperson. The medal is awarded on an intermittent basis to persons whose work is deemed outstanding and a significant contribution to Iowa’s recognition as a state characterized by equality and justice. The Iowa Women’s Hall of Fame committee shall make recommendations to the commission for persons to receive this award.

**41.1(5) Nomination forms and deadlines.** Nomination forms and deadlines shall be posted on the human rights department’s website at [humanrights.iowa.gov/cas](http://humanrights.iowa.gov/cas).

**421—41.2(216A) Iowa Latino Hall of Fame.**

**41.2(1) Purpose.** The purpose of the Iowa Latino Hall of Fame shall be to recognize and honor outstanding Iowa Latinos that have contributed their talents and skills to improve the quality of life in Iowa and to provide visible examples for tomorrow’s Latino leaders.

**41.2(2) *Committee.*** The Iowa Latino Hall of Fame committee shall consist of three commissioners of the commission of Latino affairs, one serving as the committee chairperson; two public members selected by the commission of Latino affairs; and the chairperson of the commission of Latino affairs as an ex officio member.

**41.2(3) *Selection procedure.*** The committee shall solicit nominations for the Iowa Latino Hall of Fame. The committee shall recommend to the commission of Latino affairs for its approval no more than three individuals to be inducted into the Iowa Latino Hall of Fame, one individual for the Robert D. Ray Award for Equity and Justice, and one individual for the Iowa Latinx Youth Leadership Award. The committee shall plan the ceremony and reception each year for the Iowa Latino Hall of Fame.

**41.2(4) *Robert D. Ray Award for Equity and Justice.*** The Robert D. Ray Award for Equity and Justice shall recognize and honor the efforts and accomplishments of non-Latino and Latino Iowans. The award is awarded to persons whose work is deemed outstanding and a significant contribution to the equity and justice for Iowa's new immigrants. The Iowa Latino Hall of Fame committee shall make recommendations to the commission for persons to receive this award.

**41.2(5) *Iowa Latinx Youth Leadership Award.*** The Latinx Youth Leadership Award is awarded to an Iowa Latinx youth or young professional who is making a difference in that individual's community.

**41.2(6) *Nomination forms and deadlines.*** Nomination forms and deadlines shall be posted on the human rights department's website at [humanrights.iowa.gov/cas](https://humanrights.iowa.gov/cas).

These rules are intended to implement Iowa Code chapters 17A and 216A.

[Filed 12/2/21, effective 2/2/22]

[Published 12/29/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/29/21.